



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 2018-0176

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)	3
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, 17 July 2018 2:39:10 PM

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:

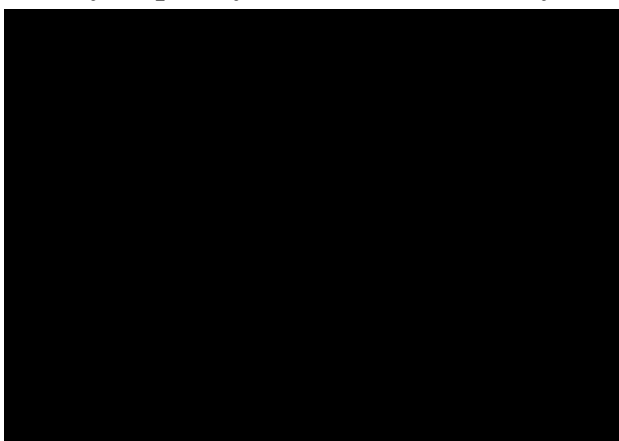
Suburb:

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.)

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

Documentation held in relation to the decision-making process about my application for a Withdrawal of an Infringement under Section 34 of the Troad Transport (General) Act 1999. Parking Infringement Notice Number



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

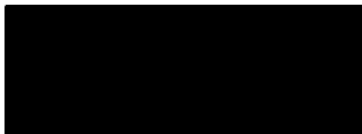
Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2018-0176



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 17 July 2018, in which you sought access to documentation held in relation to the decision-making process about my application for a Withdrawal of an Infringement under Section 34 of the *Road Transport (General) Act 1999*.

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 14 August 2018.

Decision on access

Searches were completed for relevant documents and 1 document was identified that falls within the scope of your request. I note that this document is publically available on the ACT Government legislation website www.legislation.act.gov.au.

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

I have decided to grant full access to all relevant documents. The documents released to you are provided as **Attachment B** to this letter.

Charges

Processing charges are not applicable for this request as the document is already publically available.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. A description of the access application and my decision will be published in the CMTEDD disclosure log after 25 July 2018. Your personal contact details will not be published.

You may view CMTEDD disclosure log at
<http://www.cmd.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: 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 (02) 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Daniel Riley', with a stylized flourish at the end.

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

20 July 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]	Documentation held in relation to the decision-making process about my application for a withdrawal of an Infringement under Section 34 of the Road Transport (General) Act 1999. Parking Infringement Notice Number [REDACTED]	CMTEDDFOI2018-0176

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
	1-10	Road Transport (General) Withdrawal of Infringement Notices Guidelines 2018 (No 1)	26 April 2018	Full Release	N/A	No
Total No of Docs						
1						

Road Transport (General) Withdrawal of Infringement Notices Guidelines 2018 (No 1)

Disallowable instrument DI2018–70

made under the

Road Transport (General) Act 1999, section 38 (1) (Infringement notices – guidelines for withdrawal)

1 Name of instrument

This instrument is the *Road Transport (General) Withdrawal of Infringement Notices Guidelines 2018 (No 1)*.

2 Commencement

This instrument commences on 30 April 2018.

3 Issuing of guidelines

(1) I issue the guidelines in Schedule 1 for the withdrawal of infringement notices served under the road transport legislation.

(2) The guidelines in Schedule 1 set out the criteria for the withdrawal of an infringement notice to which the guidelines apply under clause 4 of this instrument.

4 Application of guidelines

A guideline contained in column 3 of the table in Schedule 1 applies to an infringement notice offence mentioned in column 2 of the table, subject to any limitations or conditions mentioned in column 4 of the table.

Note: under section 38 (2) of the *Road Transport (General) Act 1999*, the administering authority for an infringement notice offence must comply with the guidelines.

5 Definitions

mobility parking scheme authority — see the *Road Transport (Safety and Traffic Management) Regulation 2017*, dictionary

parking permit — see the *Road Transport (Safety and Traffic Management) Regulation 2017*, dictionary

parking ticket — see the *Road Transport (Safety and Traffic Management) Regulation 2017*, dictionary

6 Repeal

DI 2012-246 is repealed.

Shane Rattenbury
Minister for Justice, Consumer Affairs and Road Safety
26 April 2018

Part 1: Circumstances that apply to all infringement notices issued under the road transport legislation

Item	Offences to which circumstance applies	Circumstance	Comments, exceptions or other limitations
1.1	All infringement notice offences under the road transport legislation	<p>The infringement notice has been issued incorrectly, including where the infringement notice contains an error of the following type:</p> <ul style="list-style-type: none"> • where information concerning the vehicle is incorrect; • where the information concerning the driver, responsible person for the vehicle or accredited operator (in the case of public vehicles) is incorrect; or • the description of the alleged offence is incorrect, an incorrect offence type has been used or there is some other technical error in describing the offence. 	<p>The notice should be withdrawn, either on application by the person on whom it was served or at the motion of the administering authority.</p> <p>After withdrawing the infringement notice, the administering authority may issue a new infringement notice for the offence with amended details, if the time for issuing an infringement notice has not expired.</p>

**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1)**

Schedule 1

<p>1.2</p>	<p>All infringement notice offences under the road transport legislation</p>	<p>Administrative or technical reasons outside the control of the applicant for withdrawal, including but not limited to:</p> <ul style="list-style-type: none"> • the infringement notice relied on incorrect information recorded in a database maintained by the road transport authority, and the incorrect information was not supplied by or on behalf of the applicant for the withdrawal (not covered by a circumstance mentioned in item 1.1); • a permit, licence, authority or other document issued or granted by the road transport authority contained an error that did not arise from information supplied by, or actions done by, the applicant for withdrawal or a person acting on the applicant's behalf, contributed to 	<p>The administering authority may withdraw the infringement notice only if satisfied on reasonable grounds that the administrative or technical grounds exist which either wholly or materially contributed to the circumstance in which the applicant was incorrectly issued with an infringement notice.</p>
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**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1)**

Schedule 1

		<p>the circumstance in which the applicant was incorrectly issued with an infringement notice ;</p> <ul style="list-style-type: none"> • a machine, device, instrument, sign, signal or other thing (whether used or installed by, or under authority from, the road transport authority or the road transport legislation) was missing, defective or malfunctioning, and the absence, defect or malfunction contributed to the circumstance in which the applicant was incorrectly issued with an infringement notice ; • delay or inaction by the road transport authority materially contributed to the circumstances in which the infringement notice was issued, and the 	
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**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1) Schedule 1**

		<p>delay or inaction was not the result of information provided, or actions undertaken, by or on behalf of the applicant for withdrawal.</p>	
1.3	All infringement notice offences under the road transport legislation	<p>Emergency medical situation or similar event, where:</p> <ul style="list-style-type: none"> • the applicant for withdrawal has completed a statutory declaration detailing the emergency situation or similar event; and/or • the emergency medical situation or event can be confirmed by a registered health practitioner, hospital records, police report or similar report. 	<p>In determining whether the infringement notice should be withdrawn on the basis of an emergency medical situation or similar event, the administering authority may have regard to the alleged offender's access to alternative transport or parking options, the actual risks posed to other road users and any other relevant circumstances.</p> <p>If the administering authority is satisfied on reasonable grounds that an emergency situation or similar event existed that justified or excused the alleged conduct of the applicant in all the circumstances, the infringement notice may be withdrawn.</p>
1.4	Infringement notice offences under the road transport legislation,	<p>Applicant's previous good behaviour, having regard to:</p> <ul style="list-style-type: none"> • whether the applicant was 	<p>In determining whether to withdraw an infringement notice on the basis of the applicant's previous</p>

**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1)**

Schedule 1

	<p>other than offences relating to: (1) parking contrary to, or without a mobility parking scheme authority; (2) stopping in or near an intersection, children's crossing or pedestrian crossing; (3) stopping contrary to a "No Stopping" sign.</p>	<p>issued any relevant infringement notices under the road transport legislation (or a corresponding law of another jurisdiction); or</p> <ul style="list-style-type: none"> • whether the applicant was convicted (including where an offence has been taken into account under section 57 of the <i>Crimes (Sentencing) Act 2005</i>) or found guilty of any other relevant offences under the road transport legislation, or any offence mentioned in section 29 of the <i>Crimes Act 1900</i>, <p>in the 5 year period before the commission of the infringement notice offence to which the withdrawal application refers.</p> 	<p>good behaviour, the administering authority must consider the following matters in addition to the applicant's previous good behaviour:</p> <ul style="list-style-type: none"> • the circumstances of the alleged offence, including the level of risk posed by the applicant's behaviour to other road users; • the seriousness of the alleged offence; • the extent to which the applicant was aware, or ought reasonably to have been aware, that the conduct constituting the offence was contrary to law.
1.5	All infringement notice offences under the road transport legislation	Person in respect of whom notice was issued is deceased or has moved overseas permanently	Provision of appropriate evidence will be required to satisfy the administering authority. Appropriate evidence:

**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1)**

Schedule 1

			<ul style="list-style-type: none"> • for a death — includes a death certificate, fact of death notification or funeral notice; • moved overseas — includes a statutory declaration.
1.6	All infringement notice offences under the road transport legislation	There is insufficient evidence to establish the commission of the offence and/or the involvement of the applicant in the offence	Where the administering authority considers that there is insufficient evidence, an infringement notice should be withdrawn either on application by person on whom notice was served or at the motion of the administering authority.
1.7	All infringement notice offences under the road transport legislation	Evidence is available that indicates another defence or exemption applies to the person on whom the infringement notice was served.	Where the administering authority forms the view that evidence is available that meets or would meet the applicable evidentiary standard to establish that another defence or exemption applies, the infringement notice should be withdrawn.
1.8	All infringement notice offences under the road transport legislation	Section 53 (5) applies because the person has disputed liability and the administering authority has not laid an information for the offence within 60 days.	The administering authority should withdraw the infringement notice.

Part 2 Additional circumstances that apply to offences involving the parking of a motor vehicle or trailer

Item	Offences to which circumstance applies	Circumstance	Comments, exceptions, modifications or other limitations
2.1	Any offences relating to parking permits and parking tickets under the <i>Road Transport (Safety and Traffic Management) Regulation 2017</i> and the <i>Road Transport (Road Rules) Regulation 2017</i> .	The applicant for withdrawal held a valid parking permit or parking ticket but the parking permit or parking ticket was not properly displayed	<p>The administering authority may withdraw the infringement if:</p> <ul style="list-style-type: none"> • the applicant provides a statutory declaration detailing the type of parking permit or parking ticket that was held, and the steps the person took to display it correctly; and • the parking permit or parking ticket can be provided to the administering authority; and • the administering authority is satisfied that the person took reasonable steps to display the parking permit or parking ticket correctly.

**Road Transport (General) Withdrawal of Infringement Notices
Guidelines 2018 (No 1) Schedule 1**

2.2	All parking and stopping offences under the road transport legislation	The offence occurred because the vehicle had broken down or otherwise become immobilised.	<p>The administering authority may withdraw an infringement if the applicant:</p> <ul style="list-style-type: none"> • provides a statutory declaration explaining the circumstances of the vehicle breakdown or immobilisation; and • provides other evidence, such as a receipt or statement, from a roadside assistance service, towing service or similar body to confirm that the vehicle was broken down or immobilised at the relevant time in that location.
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