



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 2021-071

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)	35
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: Thursday, 29 April 2021 9:48:44 AM

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.)

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

Record of successful claim payments made by the ACT Master Builders Fidelity Fund.
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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: CMTEDDFOI2021-071



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 22 April 2021.

Specifically, you are seeking:

"Record of successful claim payments made by the ACT Master Builders Fidelity Fund."

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 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 29 April 2021 however, following on from third party consultations, the due date is now 21 June 2021.

Decision on access

Searches were completed for relevant documents and 1 document was identified that fell within the scope of your request.

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

I have decided to grant partial access to the document that was 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; and
- the *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding not to grant access to components of the document is 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 the document 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:*
- (ii) *contribute to positive and informed debate on important issues or matters of public interest; and*
 - (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 informed debate on important matters of public interest and 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:*
- (ii) *Prejudice the protection of an individual’s right to privacy or other rights under the Human Rights Act 2004; and*
 - (xi) *prejudice trade secrets, business affairs or research of an agency or person.*

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 (email addresses, signatures, mobile phone 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*.

Information contained with the document that falls within the scope of your request could reasonably prejudice the business affairs of external entities. "Business affairs" was interpreted in *7 Cockcroft and Attorney-General's Department and Australian Iron Steel Pty Ltd (1986) 64 ALR 97, 106*, to mean: "the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs." 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 (Builder) could prejudice business affairs.

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 because 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 on the CMTEDD disclosure log not earlier than 3 working days and not later than 10 working days after the date of my decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at: [Disclosure Log 2021 - Chief Minister, Treasury and Economic Development Directorate \(act.gov.au\)](https://act.gov.au/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 date of this letter, 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

A handwritten signature in black ink, appearing to read 'A Friend', with a long horizontal flourish extending to the right.

Angela Friend
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
21 June 2021



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Record of successful claim payments made by Fidelity Fund	CMTEDDFOI 2021-071

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	MBA Claims Status as at August 2021	08-2014	Partial	Schedule 2.2 a(ii) Schedule 2.2 a(Xi)	Yes
Total No of Docs						
1						

MBA FF Claim Status as at August 2014

Claim Year	Cert No	Claim Status P - Processing C - Completed	Claim Date	Claimant Name	Builder	Amount Paid	S = Statutory Warranty I = Incomplete work	Completion Date
2002	Sch 2.2(a)(ii)			Sch 2.2(a)(ii) Sch 2.2(a)(xi)				
2003		C	11/06/2003			\$25,500.00	I	22/06/2004
		C	20/03/2008			\$2,828.00	S	17/06/2008
2004								
2005								
2006								
2007		C	19/10/2007			\$2,556.40	S	5/02/2008
2008		C	20/08/2008			\$3,372.50	S	7/11/2008
		C	9/12/2008			\$5,525.00	S	14/04/2009
2009		P	16/06/2009			\$56,323.60	S	16/06/2010
		C	22/07/2009			\$85,000.00	I	27/10/2009
		C	15/08/2009			\$85,000.00	I	17/09/2009
		C	28/08/2009			\$85,000.00	S	24/02/2010
		C	28/08/2009			\$55,340.00	I	28/08/2009
		C	18/09/2009			\$85,000.00	I	15/03/2010
		C	30/08/2009			\$16,033.00	I	27/11/2009
2010		C	6/01/2010			\$5,885.00	S	12/10/2010
		C	15/09/2010			\$2,722.00	S	9/11/2010
		C	27/10/2010			\$14,589.00	S	27/10/2010
		C	4/11/2010			\$13,030.00	S	3/11/2011
		C	3/12/2010			\$29,700.40	S	3/12/2011
		C	12/12/2010			\$2,675.20	S	23/03/2011
2011		C	10/01/2011			\$5,602.00	S	21/07/2011
		C	27/06/2011			\$500.00	S	1/11/2011
		C	22/08/2011			\$13,946.00	S	4/06/2013
		C	22/08/2011			\$18,805.50	S	6/05/2014
		C	22/08/2011			\$12,135.00	S	4/06/2013

MBA FF Claim Status as at August 2014

Year	Cert No	Claim Status P - Processing C - Completed	Claim Date	Claimant Name	Builder	Amount Paid	S = Statutory Warranty I = Incomplete work	Completion Date
	Sch 2.2(a)(ii)	C	22/08/2011	Sch 2.2(a)(ii) Sch 2.2(a)(xi)		\$18,171.50	S	4/06/2013
		C	22/08/2011			\$19,466.50	S	4/06/2013
		C	25/09/2011			\$12,341.00	I	21/06/2012
		C	9/10/2011			\$4,618.60	I	21/11/2012
		C	17/10/2011			\$5,550.00	I	9/01/2012
		C	26/10/2011			\$12,805.00	I	2/11/2011
		C	27/10/2011			\$59,910.00	I	12/09/2012
		C	23/12/2011			\$46,548.00	S	22/08/2012
2012		C	2/07/2012			\$5,550.00	S	16/07/2013
		C	20/07/2012			\$86,425.00	I	22/05/2013
		C	31/07/2012			\$22,438.00	I	4/02/2013
		C	16/08/2012			\$11,688.97	S	7/03/2014
		C	30/10/2012			\$45,308.00	I	18/04/2013
2013		C	5/12/2012			\$88,180.00	I	6/08/2013
		C	11/12/2012			\$85,825.00	I	18/04/2013
		C	11/12/2012			\$74,407.00	I	10/07/2013
		C	12/12/2012			\$15,828.10	I	6/05/2014
		C	18/01/2013			\$20,869.71	S	5/12/2013
		C	22/02/2013			\$42,405.34	I	7/11/2013
		C	21/06/2013			\$20,146.00	S	14/11/2013
2014		P	29/01/2014			\$2,004.00	I	
		C	4/03/2014			\$25,236.00	S	28/04/2014
		P	20/03/2014				S	
		C	9/05/2014			\$85,000.00	I	17/06/2014
		P	18/05/2014			\$34,311.70	I	
		P	27/05/2014				I	
Total payout sum						\$1,459,072.02		