



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 2019-089

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)	12
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: Canberra Times FOI request - foreign investor tax
Date: Thursday, 11 April 2019 10:03:59 AM

G'day guys,

I write under the Freedom of Information Act 2016 to request the following documents in possession of the Chief Minister, Treasury and Economic Development Directorate:

- all ministerial briefs regarding the increase of land tax to foreign investors (excluding duplicates) from 1 January 2018 to 11 April 2019;
- data on a) how many investors were captured under the scheme from 1 July 2018 to 11 April 2019 , b) how much money this surcharge has brought in from 1 July 2018 to 11 April 2019;
- any formal reports or analysis provided to the Chief Minister regarding the efficacy of the foreign investor surcharge from 1 July 2018 to 11 April 2019.

I seek this information in order to establish how well this new tax is working, and thus believe my request satisfies the public interest test set out in schedule 2.1, including clauses (i), (ii), and (viii).

As such I ask that you waive the processing fees for this request under section 107 (2)(b) of the ACT.

Please note I have also tried to seek this information through the appropriate media channels but after more than a month of waiting I was denied access.

You can call me on the below number if you have any questions.






ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2019-089



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 11 April 2019, in which you sought access to:

- All ministerial briefs regarding the increase of land tax to foreign investors (excluding duplicates) from 1 January 2018 to 11 April 2019;
- Data on
 - a) how many investors were captured under the scheme from 1 July 2018 to 11 April 2019,
 - b) how much money this surcharge has brought in from 1 July 2018 to 11 April 2019;
- Any formal reports or analysis provided to the Chief Minister regarding the efficacy of the foreign investor surcharge from 1 July 2018 to 11 April 2019.

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 14 May 2019.

Decision on access

Searches were completed for relevant documents and 6 documents were identified that fall within the scope of your request.

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

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

Further documents are publicly available at:

https://www.cmtedd.act.gov.au/data/assets/pdf_file/0010/1209826/2018-0053.pdf

Charges

Processing charges are not applicable for this request because the number of pages being released is less than 50.

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 3 days after the date of this decision. Your personal contact details will not be published. You may view the 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 a review by the Ombudsman of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the 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

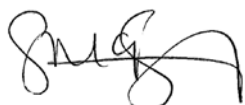
ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made by the Ombudsman under section 82(1), you may apply to the ACAT for a 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 by email CMTEDDFOI@act.gov.au.

Yours sincerely,



Sarah McBurney
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

2 May 2019



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	<ul style="list-style-type: none"> • All ministerial briefs regarding the increase of land tax to foreign investors (excluding duplicates) from 1 January 2018 to 11 April 2019; • Data on <ul style="list-style-type: none"> ○ a) how many investors were captured under the scheme from 1 July 2018 to 11 April 2019 , ○ b) how much money this surcharge has brought in from 1 July 2018 to 11 April 2019; • Any formal reports or analysis provided to the Chief Minister regarding the efficacy of the foreign investor surcharge from 1 July 2018 to 11 April 2019. 	2019-089

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Budget Estimates Brief – Revenue Initiatives contained in the 2017-18 Budget.	12/02/2018	Full release	N/A	Yes
2	3	Email chain	05/02/2018	Full release	N/A	Yes
3	4	Communications dot points	Undated	Full release	N/A	Yes
4	5	Assembly question on Foreign investor surcharge impact on rent rates	Undated	Full release	N/A	Yes
5	6	Attachment to above document	Undated	Full release	N/A	Yes
6	7-9	Proposed responses to COE Office Questions	Undated	Full release	N/A	Yes
Total No of Docs						
6						

ISSUE: REVENUE INITIATIVES CONTAINED IN THE 2017-18 BUDGET REVIEW

Key Information

Foreign investor land tax surcharge

- From 1 July 2018, foreign investors will be charged an annual land tax surcharge of 0.75 per cent on residential land they own in the ACT.
- The charge will not apply to ACT residents and is designed to help local home buyers compete with foreign investors.
- The surcharge will increase land tax for the median unit with an average unimproved value (AUV) of \$101,372 by around \$760 and the median house with an AUV of \$329,130 by around \$2,470 in 2018-19.
- Similar surcharges have been applied in NSW, Victoria and Queensland. The ACT Revenue Office will develop the ongoing compliance system for this surcharge.
- The surcharge will raise an estimated \$4 million over three years from 2018-19 to 2020-21, based on forecast growth in AUVs and the estimated number of properties purchased.

Boosting the Utilities Concession

- The Utilities Concession will be increased by \$50 to \$654, from 1 July 2018.
- In the ACT, retail electricity prices increased by 19 per cent and gas prices increased by 17 per cent on 1 July 2017. The concession boost will help Canberrans who may be struggling with this increased cost of living.
- More information on the concession is available at www.assistance.act.gov.au
- The increase to the concession is estimated to cost around \$1.7 million in 2018-19.

Improving access to the Utilities Concession

- From 1 January 2018, to improve the fairness of the Utilities Concession, long term residents of caravan parks and retirement villages with embedded networks will become eligible for the Utilities Concession.
 - Under the previous system, the Utilities Concession was only available to people with an individual electricity meter.
- The ACT Revenue Office will contact caravan parks and retirement villages with eligible residents over the coming months. Where eligible, residents' concessions will apply from 1 January 2018.

Cleared as complete and accurate: 12/02/2018
Cleared by: Deputy Under Treasurer Ext: 75071
Contact Officer Name: Stephen Miners
Lead Directorate: Chief Minister, Treasury and Economic Development

- The estimated cost of improving access to the concession is around \$112,000 per year.

Better targeting concessions – Abolishing the Seniors Spectacles Scheme

- The Seniors Spectacles Scheme was not means tested and will be abolished from 1 July 2018.
 - The Seniors Spectacles Scheme provided ACT Seniors Card holders with a \$35 rebate towards the cost of spectacles once every two years.
- There will be no change to the Spectacles Subsidy Scheme, which provides up to \$200 once every two years to eligible ACT residents. To qualify for this scheme the ACT resident must hold a Centrelink or DVA Pensioner Concession Card or a Health Care Card.
- Abolishing the Seniors Spectacles Scheme will help ensure government assistance schemes are targeted to those most in need.
- The initiative is estimated to save \$60,000 per year.

Cleared as complete and accurate: 12/02/2018
Cleared by: Deputy Under Treasurer Ext: 75071
Contact Officer Name: Stephen Miners
Lead Directorate: Chief Minister, Treasury and
Economic Development

TRIM Ref:

From: [Fell, Jacob](#)
To: [Asmus, Conrad](#)
Subject: FW: Foreign investors [SEC=UNCLASSIFIED]
Date: Monday, 5 February 2018 12:09:25 PM

Conrad, for your info.

From: Goth, Kathy
Sent: Monday, 5 February 2018 12:01 PM
To: Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: RE: Foreign investors [SEC=UNCLASSIFIED]

Jake

Just spoke to Jen and approved these words

From: Rayner, Jennifer
Sent: Monday, 5 February 2018 11:40 AM
To: Goth, Kathy <Kathy.Goth@act.gov.au>; Fell, Jacob <Jacob.Fell@act.gov.au>
Subject: Foreign investors

Morning guys,

A quick one we'd like to clarify with you re the foreign investor land tax surcharge announcement today – can we please have an ok (or not) on the below by midday?

The query is about how many properties are owned by foreign investors in the ACT. Can we say:

The Foreign Investment Review Board's Annual Report provides data on the number of foreign purchases of residential property in the ACT each year. For example, in 2015-16 there were 283 approved purchases of residential property by foreign buyers.

This annual data was used to inform the revenue estimates for this budget initiative.

Thanks for your help,

Jen

- From 1 July 2018, foreign investors will pay a yearly land tax surcharge of 0.75 per cent on the average unimproved value of their residential investment properties in the ACT.
- Foreign investors who invest in the Territory will contribute a fairer share of the delivery of services in the ACT.
- Foreign investors benefit from the capital growth that comes with the high standard of living in the ACT.
- The surcharge will improve housing affordability by helping local home buyers compete with foreign investors on a more equal footing.
- No people living in the ACT will pay the surcharge.
- The surcharge is estimated to raise around \$4 million from 2018-19 to 2020-21.
- Further details of the surcharge will be released as legislation is developed.

Question

MR COE: Minister, what modelling has the government done with regard to the foreign tax that has now been placed on foreign investment here in the ACT with regard to the impact it will have on the private rental market?

MR GENTLEMAN: I do not have the detailed modelling in front of me but I will get hold of it and present it back to the Assembly.

Answer

Modelling of the Foreign Investor Surcharge is based on estimated median property average unimproved values (AUVs) and number of properties. The estimate of foreign purchases is based on data from the Foreign Investment Review Board 2015-16 Annual Report which reports the volume of approved residential property investments in each jurisdiction.

Analysis undertaken as part of Budget Cabinet considerations indicated that rents in the ACT are predominantly determined by supply and demand and are unlikely to be greatly affected by costs associated with land tax.

Proposed responses to COE Office Questions

Land Tax Amendment Bill – Modelling used

In relation to identifying the estimated 1.5% vacant properties, Mr Coe would like to clarify:

- *How the Revenue Office got information on utilities usage of properties;*

Icon Water and Evoenergy (previously ActewAGL Distribution) provided aggregated utility data on request to Treasury.

- *Who provided the information to Revenue Office;*

See above.

- *What information was received and in what format (e.g. a breakdown of individual property locations to cross check, or x number of properties used less than y amount of water);*

Electricity: The information identified the aggregated number of premises in the ACT using electricity, above and below, a certain usage threshold.

Water: The information identified the aggregated number of premises in the ACT using water, according to different levels of usage.

- *What threshold or criteria were there in determining the expected utilities usage;*

For electricity, an average daily threshold of 3 kilowatt hours was used.

For water, an annual threshold of 20 kilolitres and below was used.

- *What additional filters were applied;*

Water and electricity consumption data was categorised by commercial and residential sectors. For water consumption only, the residential data included only houses as units are metered separately.

- *How data was compared across utilities; and*

The results from the water and electricity data sets were compared for consistency to each other.

- *How data privacy risks were mitigated.*

N/A – no personal information or data about individual properties was collected.

In terms of the data already on hand about foreign investment properties, could you please advise:

- *The number of properties the legislation is likely to affect at 1 July 2018;*

We estimate that around 200 to 300 properties will be impacted based on information from the Foreign Investment Review Board annual reports. While it is not currently an ACT Government requirement to report this information when purchasing a property, a self-reporting requirement similar to other jurisdictions will be implemented from 1 July 2018.

- *The average number of foreign investment properties that are currently registered annually;*

The Foreign Investment Review Board (FIRB) reports the volume of approved residential property investments in each jurisdiction. There were 332 and 283 approvals in the ACT of proposed investment in residential real estate in 2014-15 and 2015-16 respectively, according to the latest FIRB reports available publically.

- *Which directorate is responsible for keeping and inputting the data on property transfers (e.g. whether the information on the transfers is kept by EPSD but the Revenue Office retains some access to it);*

Access Canberra is responsible for collecting and keeping this data. Access Canberra is authorised by legislation to collect and disclose a copy of the data to the ACT Revenue Office for duty assessments.

- *The Federal entities or third parties which will assist with determining foreign ownership, and what data is provided.*

The ACT Revenue Office is considering using other data, for example from the FIRB, however, this matter is yet to be finalised.

Commonwealth fees and charges

- *Does the Commonwealth make payments toward utilities, such as water and sewerage?*

The Commonwealth pays utility costs, including costs associated with water and sewerage services provided by Icon Water.

We are not aware of any utility company that does not receive payments for services provided to the Commonwealth. However, for a comprehensive response to this question, it would need to be answered directly by the Commonwealth.

- *Are all Commonwealth properties metered?*

Icon Water has advised it is standard business practice for properties that are connected to their network, including Commonwealth properties, to be metered.

We are not aware of any utility company that does not meter the Commonwealth for their services. However, for a comprehensive response to this question, it would need to be answered directly by the Commonwealth.

- *Does the Commonwealth pay utilities tax?*

The Utilities Network Facilities Tax (UNFT) is paid by owners of any network facility on land in the ACT.

These costs are generally passed on to customers, which includes the Commonwealth. Some utilities may choose to explicitly identify these costs on customer bills.

- *Do Commonwealth business enterprises pay payroll tax?*

Australian governments apply competitive neutrality principles to government businesses so they do not enjoy a competitive advantage simply as a result of their public sector ownership. One principle is tax neutrality, whereby government business enterprises either pay taxes that private businesses pay or make an equivalent payment to their government.

- *Do any of the following Government Business Enterprises pay payroll tax: Australia Post, Defence Housing Australia, Australian Sports Commission, Australian National University, NBN Co, National Museum, National Gallery and Airservices Australia?*

It is not possible to confirm whether particular entities remit payroll tax to the ACT Government as this would breach the secrecy provisions of the *Taxation Administration Act 1999*. However, Australia Post, Defence Housing Australia and NBN Co are Commonwealth Government Business Enterprises (GBEs). The Commonwealth reports that they comply with tax neutrality by either paying relevant business taxes or make an equivalent payment (See [www.federalfinancialrelations.gov.au/CN Matrix Report 2015-16.pdf](http://www.federalfinancialrelations.gov.au/CN_Matrix_Report_2015-16.pdf)).

The Australian Sports Commission, Australian National University, National Museum, National Gallery and Airservices Australia are other types of Commonwealth entities and not GBEs. While the Commonwealth's competitive neutrality principles policy also applies to the significant business activities of non-GBEs, they are not included in the competitive neutrality Matrix Report. The Commonwealth would be best placed to respond to questions about the application of this policy to specific non-GBEs.
