



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 2019-216

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	Yes/No
5. Fees	N/A
6. Processing time (in working days)	16
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 September 2019 3:39:20 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):

Incoming minister's brief for the Minister for Employment and Workplace Safety prepared in June and July 2019.

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: CMTEDDFOI 2019-216

[REDACTED]

via email: [REDACTED]

Dear [REDACTED]

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 September 2019, in which you sought access to the *'incoming minister's brief for the Minister for Employment and Workplace Safety prepared in June and July 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 16 October 2019.

Decision on access

Searches were completed for relevant documents and 2 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 access in full to one document relevant to your request and refuse access to one document as I consider it to be:

- contrary to the public interest information under schedule 1 s 1.14 of the Act.

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; and
- the content of the documents that fall within the scope of your request.

Exemption claimed

My reasons for deciding not to grant access to the identified document are as follows:

Contrary to the public interest information under schedule 1 of the Act

Attachment A – “Investigations Report”, as mentioned in the Brief to the Minister at folio 1 of the schedule is entirely composed of information that is considered to be contrary to the public interest under schedule 1 s 1.14 of the Act.

Schedule 1 s 1.14 of the Act states:

1.14 Law enforcement or public safety information

(1) Information the disclosure of which would, or could reasonably be expected to—

(a) prejudice the investigation of a contravention or possible contravention of the law in a particular case.

The investigations report contains the details of all ongoing investigations being conducted by ACT Worksafe, including information about potential outcomes and details of the investigations that have not been made public. This information, if released, would prejudice the outcomes of these investigations. Accordingly, I have decided to withhold this document from release.

Charges

Processing charges are not applicable for this request because the number of pages being released 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 14 October 2019. 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: 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,



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

10 October 2019



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME		WHAT ARE THE PARAMETERS OF THE REQUEST			Reference NO.
[REDACTED]		Incoming minister's brief for the Minister for Employment and Workplace Safety prepared in June and July 2019.			CMTEDDFOI 2019-216

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-9	Incoming Ministers Brief – Work Health and Safety	25-Aug-2019	Full release	N/A	Yes
2		Attachment A – Investigations report		Exempt	Sch1 s1.14	No
Total No of Docs						
2						

INCOMING MINISTER'S BRIEF

SUBJECT: WorkSafe ACT Activities

ISSUE: WorkSafe ACT's compliance and enforcement of the Work Health and Safety Legislation

- WorkSafe ACT's role as a work health and safety regulator focusses on harm prevention and improving the safety culture in the Territory.
- WorkSafe exercises a wide range of regulatory responsibilities to the following legislation and associated regulations:
 - *Work Health and Safety Act 2011*
 - *Scaffolding and Lifts Act 1912*
 - *Machinery Act 1949*
 - *Dangerous Substances Act 2004*
 - *Dangerous Goods (Road Transport Act) 2009*
 - *Fuels Control Act 1979*
 - *Workers Compensation Act 1951*
 - *Long Service Leave Act 1976*
- WorkSafe offers advice on improving work health and safety, provides licensing and registration for potentially dangerous work, investigates workplace incidents and enforces the *Work Health and Safety Act 2011*.
- WorkSafe licences self-insurers, approved insurers and rehabilitation providers under the *Workers Compensation Act 1951*.
- The ACT Work Safety Commissioner is a statutory office holder appointed by the ACT Government under the *Work Health and Safety Act 2011*. In addition to the conduct of enforcement and compliance activity under delegation for the above legislation, the primary statutory functions of the Work Safety Commissioner are to:
 - promote an understanding and acceptance of, as well as compliance with, the *Work Health and Safety Act 2011* and associated laws;
 - undertake research and develop educational material for the purposes of promoting health and safety in the ACT; and
 - advise the relevant Minister on matters pertaining to health and safety in the ACT.
- WorkSafe ACT, along with the other Australian safety and workers' compensation authorities, is a participant in both the Heads of Work Safety Authorities (HWSA) organisation and the Heads of Workers' Compensation Authorities (HWCA) bodies.

Work Safety Council

- The Work Safety Council is established under the *Work Health and Safety Act 2011*. The Minister for Workplace Safety and Industrial Relations is the portfolio Minister.
- The Council provides advice to the Minister on matters relating to work safety, workers compensation, bullying in the workplace and other workplace psychosocial issues. It also enquires into and reports to the Minister on matters referred to the Council as well as specific matters set out in the *Work Health and Safety Act 2011*.
- The Work Safety Council comprises of thirteen people appointed by the Minister and the ACT Work Safety Commissioner. Members are appointed part-time for a period of no more than three years. Four meetings are scheduled each year, additional meetings may also be held to progress specific matters.

Independent Review

- A review into the ACT's work safety, compliance infrastructure, policies and procedures was announced by the Government in May 2018, with the final report delivered to Government in August 2018.
- In a Ministerial Statement of October 2018, Minister Stephen-Smith advised the Assembly that the Government had given its in-principle support to all 27 recommendations made in the review. The Statement also noted that the Government would '*work to ensure the effective implementation of the recommendations over the coming months*'.
- A five-member transition team has been established to oversee implementation of the review recommendations. The work of the transition team is being overseen by a Steering Committee of senior officials from CMTEDD, JACS and Access Canberra.
- Work is progressing on all recommendations, however full implementation will be subject to the passage of legislative changes that were introduced into the Legislative Assembly on 19 August 2019. The Bill gives effect to changed governance arrangements, specifically to establish the statutory office of the Work Health and Safety Commissioner as regulator. The regulator will be supported by the Office of the Work Health and Safety Commissioner (to be known as WorkSafe ACT).
- Supplementary budget funding will be necessary to support WorkSafe's new governance arrangements.

Engagement Activities

- WorkSafe engages with industry and workers to ensure that a strong safety culture prevails as reflected in the attitudes and behaviours that result in healthier and safer workplaces.
- To achieve this, WorkSafe has an increased emphasis on safety awareness, pro-active site inspections and enforcement action. Compared to 2017/18, WorkSafe has more than doubled enforcement activity in the 2018/2019 financial year.

Healthier Work Program

- The Healthier Work program is part of WorkSafe ACT. Healthier Work is a free ACT government service under the Healthy Weight Initiative established to support employers to develop health and wellbeing initiatives within their workplace.
- Healthier work aims to build the capacity of workplaces to develop and implement programs, policies and practices that lead to healthy environments and sustained employee healthy lifestyle changes in relation to increased physical activity levels, healthier eating behaviours, smoking reduction/cessation, reduction of harmful alcohol consumption, maintenance of healthy weight and improved social and emotional wellbeing.

Recent proactive compliance activities

- WorkSafe operates under a risk-based compliance program. This compliance program aims to focus proactive compliance effort and resources where they will be most beneficial and effective over a three-year cycle of compliance activity. Each activity has specific targets and operational objectives based on identified risks factors; however, WorkSafe will undertake additional inspection activities within particular industries if new harms or risks to the community are identified. Reports of identified findings are written upon completion of each program.
- Inspectors conducted over 4,500 workplace inspections in 2018/19 across numerous industries and government agencies resulting in:
 - 444 Improvement Notices
 - 264 Prohibition Notices
 - 48 Infringement Notices
- Proactive workplace inspections were undertaken across a variety of industries and major events in 2018/19:
 - 196 workplace inspections included events such as Summernats, The Canberra Show, National Multicultural Festival, National Folk Festival and Floriade;
 - 10 workplace inspections were conducted as part of the crystalline silica program;
 - 244 inspections included Workers Compensation visits.

Apprentice and Young Workers Inspector partnership with Skills Canberra

- A fully funded inspector position funded under a service level agreement with Skills Canberra.
- Collaboratively WorkSafe ACT and Skills Canberra provide information and advice to both industry and directly to employers on their responsibilities for work health and safety requirements specifically for apprentice and young workers.
- Through 2018/2019 WorkSafe has spoken to more than 1,358 individual young workers and host employers across 261 workplaces.

- In addition to workplace visits and audits, the industry engagement program runs in parallel with information sessions, seminars and presentations throughout the past financial year including Registered Training Organisations and Government Training Organisations.
- This work is particularly important as we know young people, including apprentices and trainees, are often more vulnerable to unsafe work practices.

Asbestos (Mr Fluffy)

- WorkSafe ACT, under a service level agreement with the Asbestos Response Taskforce, continues to regulate the safe demolition activities and compliance obligations in relation to the government's Loose-Fill Asbestos Insulation Eradication Scheme and other legislative requirements relating to asbestos management.
- Inspectors conducted 252 workplace inspections with no significant safety concerns identified across the program for 2018/19.
- There are currently 39 residential properties in total that are still occupied with 26 owners complying with the Regulation; 1 owner partially compliant (AMP obtained awaiting confirmation remediation work has been completed); 2 owners with lapsed AMPs (expired); and 10 owners that are non-compliant (with some working towards becoming compliant).
- The *Dangerous Substance Act 2004* has provisions for issuance of Improvement Notices (to comply with obtaining an Asbestos Contamination Report and consequent AMP) and/or Prohibition Notices (to stop work on a property) as necessary.
- To date correspondence has been provided to owners of affected properties on six separate occasions with the initial correspondence sent in May 2017.
- WorkSafe ACT continues to engage with the owners and work with them to ensure compliance with the legislation.
- It is anticipated that Improvement Notices under the *Dangerous Substance Act 2004* will be forwarded to four non-compliant residents in the coming week/s.

Recent Prosecution Activities

- During 2018/19 WorkSafe successfully prosecuted two matters before the ACT Industrial Magistrates Court.
- One business was prosecuted under the *Work Health and Safety Regulations 2011* in relation to carrying out high risk work without a licence, fall from heights, electrical safety, signage and housekeeping. The business was charged with 6 counts of breaching the *Work Health and Safety Regulations 2011*. This resulted in the company being ordered to pay fines of:
 - High Risk Work unlicensed, convicted and fined \$5000;
 - Electrical, offence proved no conviction recorded;
 - Signage, offence proved no conviction recorded;
 - House-keeping, proved no conviction recorded;

- Manage falling objects, convicted and fined \$7500; and
- Manage risk of falls, convicted and fined \$12,500.
- The other business prosecuted was in relation to an apprentice butcher who had his hand caught in a meat tenderiser after the safety guard had been removed. The business was charged with 1 count of breaching Section 32 of the *Work Health and Safety Act 2011*. Convicted and fined \$7000.
- WorkSafe ACT successfully negotiated and implemented five enforceable undertakings in lieu of referral to the DPP for prosecution in the ACT Industrial Magistrates Court. The following summary of the undertakings are as follows:
 - a young worker fell from 6 metres onto a concrete floor. WorkSafe ACT alleged that the company failed to discharge its duties under Section 32 of the *Work Health and Safety Act 2011* by failing to ensure that voids were adequately covered. Total financial commitment \$132,000;
 - a company did not comply with directions issued to them via prohibition notice under section 197 of the *Work Health and Safety Act 2011*. Workers accessed scaffold to conduct works in contravention of the prohibition notice. Total financial commitment \$300,000;
 - It was alleged by WorkSafe ACT that an ACT Government Directorate had a health and safety duty under section 19 of *Work Health and Safety Act 2011* to do all that was reasonable practicable to ensure the health and safety of its staff and it failed to comply with that duty, therefore exposing its staff to a risk of injury and actual injuries. Total financial commitment of \$10.045m;
 - a young worker fell from 6 metres onto a concrete floor. The young worker was standing on a ladder next to an exposure void when he fell. WorkSafe ACT alleged that the company (a second company to that identified above) failed to discharge its duties under Section 32 of the *Work Health and Safety Act 2011* by failing to ensure that voids were adequately covered. It was further alleged that appropriate site supervision was not in place at the time of the incident. Total financial commitment \$132,000; and
 - a company entered an enforceable undertaking after WorkSafe ACT alleged that the company did not comply with Section 33 of the *Work Health and Safety Act 2011* in that asbestos removal works at a residential property was not undertaken in accordance with the companies Asbestos Removal Control Plan. Total financial commitment \$95,000.
- The total of the five enforceable undertakings totalling a value in excess of \$10.7 million.

Current investigations

- The WorkSafe Major Investigations team is currently investigating a number of matters. The status of investigations can be found in **Attachment A** – WorkSafe Investigations Report.

Future Focus

- Based on worker compensation data, the priority industries for the Territory in 2019/2020 are:
 - Construction;
 - Retail;
 - Health Care and Social Assistance; and
 - Accommodation and Food Services.
- WorkSafe will prioritise these sectors for workplace visits, education campaigns and proactive engagement.
- In 2019/2020 WorkSafe's focus areas will include:
 - Apprentice and Young Workers;
 - Mental Health (building awareness and managing mental health risks in workplaces)
 - Occupational Violence (raising awareness and assisting prevention by developing tools and resources to strengthen compliance)
 - High Risk Work activities such as:
 - > Falls From Heights;
 - > Crane Operations (including vehicle loading cranes); and
 - > Pre-cast concrete;
 - Light Rail Project; and
 - Asbestos Safety.

Active compliance programs

Silica Dust

- Silica dust (crystalline silica) is found in some stone, rock, sand, gravel and clay. The most common form is quartz. Silica dust is generated by activities such as cutting, sawing, grinding, drilling, polishing and crushing of silica containing material that is found in bricks, tiles, concrete and some plastics.
- Silica dust is harmful when inhaled into your lungs. Exposure to silica dust can lead to the development of lung cancer, silicosis (an irreversible scarring and stiffening of the lungs), kidney disease and chronic obstructive pulmonary disease.
- WorkSafe ACT has undertaken a number of activities in response to the issue on silica dust exposure including publishing guidance material on WorkSafe's website and hosting an Occupational Cancer Workshop in October 2018.
- WorkSafe ACT has commenced an audit program focussed on silica dust that targets the safety of workers in the stone benchtop manufacturing and stone cutting businesses. Other businesses, including concrete cutting in the construction industry, will be targeted

later in 2019. The audit has been carried out in 15 manufacturing businesses with six improvement notices being issued to date for various non-compliance of the Work Health and Safety Regulation 2011.

- WorkSafe ACT has been officially advised and notified one worker has been diagnosed with silicosis. The worker is a local ACT worker and employed in the stone benchtop industry locally. WorkSafe has recently initiated its enquiries into this matter.

Precast Concrete Panels

- On 30 January 2019, WorkSafe ACT was called to a construction site in Braddon where a large precast concrete panel fell from the building and impacted a neighbouring property.
- No persons were injured given the panel fell approximately 15 metres through the roof of the amenities block which was regularly used by the neighbouring business.
- Preliminary investigation of the circumstances leading to the incident has identified the temporary supports (i.e. the braces or props) were removed from the panel prior to the completion of the installation process and structural verification of the panel.
- A Safety Alert regarding Prefabricated Panel installation was forwarded to industry on 6 February 2019.
- WorkSafe's investigation into possible work health and safety contraventions is continuing.
- On Wednesday 1 May 2019, WorkSafe ACT was notified of a dangerous incident that occurred at the Ivy Apartments construction site in Woden. A pre-cast concrete panel fell from one level to another overnight. No one was on site at the time of the incident.
- Following the incident, an audit of the site was undertaken by WorkSafe ACT and an identical pre-cast concrete panel on another floor was found to be incorrectly installed.
- A Safety Alert in regard to Precast Panel Structures was distributed to industry on 13 May 2019
- In response to these two incidents, on 13 August 2019 WorkSafe commenced an audit and education program within the construction industry to identify current levels of compliance in safety operations and practices when using precast concrete panels.
- The extent of the audit will be driven by the level of compliance found with the first 15 site visits. Interim findings from the first tranche of inspections indicate non-compliance with safe work method statements (SWMS) is an emerging issue.
- On completion of the preliminary audit, an interim report will be available by 30 September 2019 on the WorkSafe ACT website.
- The full audit will continue to the end of 2019.
- Inspectors are only expected to conduct a general visual inspection of the precast concrete panel, not a full examination of the entire structure.

- Any safety breaches identified during audit activities will be acted upon immediately.

Mental Health

- WorkSafe recently appointed a psychological health officer dedicated to focusing on mental health and wellbeing to work closely with workplaces and employees to ensure everyone has access to information, support and services to maintain good mental health.
- This newly created position is a clear reflection of the ACT Government and WorkSafe's commitment to improving workplace mental health and suicide prevention.
- With one in five Australian adults experiencing a mental health condition in any given year, it's important that workplaces create an environment that is safe, positive and productive.
- The psychological health officer will work closely with the Healthier Work Program and the ACT Office of Mental Health.
- Workplaces have a legal responsibility to protect their employees' mental health and provide a safe and healthy environment.

Codes of Practice

- In September 2018, WorkSafe established a Crane Safety Committee with membership comprising of crane operators/owners, builders, construction safety managers and union representatives.
- The Committee have developed a draft Code of Practice for Tower Cranes for the ACT which has now been endorsed by members and forwarded to the Workplace Safety and Industrial Relation policy area of Government for approval as a code.
- At the end of March 2019, the Concrete Boom Consultative Committee meet for the first time and are progressing the development of the draft Code of Practice for Concrete Booms.
- The Concrete Boom Consultative Committee will take into consideration the recommendations from the recent coronial inquest into the death of Ben Catanzariti who was fatally struck by a concrete boom on a Canberra worksite back in 2012.
- Following a number of incidents involving pre-cast concrete panels on building sites, WorkSafe ACT has been developing a draft Code of Practice for Pre-cast Panels which will be discussed in detail with representatives from industry and unions in the near future.
- A Pre-Cast Concrete Panel Safety Committee is being established to improve safety in all facets of precast concrete panel operations in the ACT.
- The Committee will make recommendations to the Work Safety Council and the ACT Government including development of an ACT Code of Practice for precast concrete panels.
- The Committee will meet for the first time mid-September this year.

National Safe Work Month

- In Australia October is National Safe Work Month – a time for employers and workers to commit to building a safe and healthy workplace.
- This year's theme is 'be a safety Champion'.
- National Safe Work Month is an important time to put a spotlight on workplace safety. This work is also undertaken every day by WorkSafe and continues to be an important part of the agency's core business.
- Nationally work-related injury and disease cost the Australian community \$61.8 billion a year. Poor work health and safety costs \$5000 per worker each year and equates to 4.1 per cent of Australia's gross domestic product.
- WorkSafe ACT has taken a coordinated approach to National Safe Work Month partnering with a range of interest groups such as: Master Builders ACT, Mental Health Community Coalition, Australian Airports Association, Beyond Blue, Ozhelp, ACT Office of Mental Health, Master Plumbers Association and the ACT Education Directorate. The Healthier Work Program will also be an active support partner.
- WorkSafe ACT has also consulted with Master Builders ACT, UnionsACT and their affiliates.
- To officially launch National Safe Work Month will include a Media Release from the Minister for Workplace Safety and Industrial Relations on Tuesday, 1 October 2019.
- WorkSafe is co-hosting a Safety Day event with Master Builders ACT on Tuesday, 1 October 2019 to mark the start of National Safe Work Month.
- A launch in early October 2019 provides an opportunity to set the agenda for safety which will then continue during the month.