



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 2020-129

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	N/A
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	8
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](#); [MPC FOI](#)
Cc: [REDACTED]
Subject: FOI Request - Capital works
Date: Monday, 29 June 2020 1:37:10 PM

Good afternoon

I write to request under the *Freedom of Information Act 2016* final documents related to the ACT Government's capital works program during COVID-19 and for 2020-21. This may include documents similar to the capital works program that is normally published as part of the budget process.

Please contact my office for any further assistance or clarification.

Kind regards,






ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2020-129



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 29 June 2020, in which you sought access to:

- Final documents related to the ACT Government's capital works program during COVID-19 and for 2020-21.

On 1 July 2020 your request was suspended under section 34 of the Act awaiting your response to a scope clarification. This office received your response on 8 July 2020. This 7 day suspension has been reflected below in the due date.

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 3 August 2020.

Decision on access

Searches were completed for relevant documents and 16 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 refuse access to all identified documents as I consider them to be contrary to the public interest information under schedule 1.

In accordance with section 54(2) of the Act a statement of reasons outlining my decision is below.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act, particularly schedule 1 s1.6 Cabinet Information;
- 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 documents and components of these documents are as follows:

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

The documents that have been identified as being within the scope of your request are entirely composed of information that is considered to be contrary to the public interest under section 1.6 of Schedule 1 of the Act as it is Cabinet information. Under section 1.6 of Schedule 1 of the Act, Cabinet information is exempt from release. The purpose of this exemption is to maintain the confidentiality of the cabinet process and to uphold the principle of collective ministerial responsibility. This exemption was discussed in *The Commonwealth v Northern Land Council* [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993). Paragraph 6 of the decision, states that:

... it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.

The documents that you have requested fall within section 1.6 of the Act as it is information which has been commissioned by the Cabinet to guide it in its decision making and to assist it in its deliberations. It is therefore exempt from release under the Act.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because no documents are being released to you.

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 and my decision in response to your access application will be published in the CMTEDD disclosure log after 3 days after the date of this decision. 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.

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,



Philip Dachs
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

20 July 2020



ACT
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Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Final documents related to the ACT Government's capital works program during COVID-19 and for 2020-21	CMTEDDFOI 2020-129

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1		Cabinet document		Exempt	Sch 1 s1.6	No
2		Cabinet document		Exempt	Sch 1 s1.6	No
3		Cabinet document		Exempt	Sch 1 s1.6	No
4		Cabinet document		Exempt	Sch 1 s1.6	No
5		Cabinet document		Exempt	Sch 1 s1.6	No
6		Cabinet document		Exempt	Sch 1 s1.6	No
7		Cabinet document		Exempt	Sch 1 s1.6	No
8		Cabinet document		Exempt	Sch 1 s1.6	No
9		Cabinet document		Exempt	Sch 1 s1.6	No
10		Cabinet document		Exempt	Sch 1 s1.6	No
11		Cabinet document		Exempt	Sch 1 s1.6	No
12		Cabinet document		Exempt	Sch 1 s1.6	No
13		Cabinet document		Exempt	Sch 1 s1.6	No
14		Cabinet document		Exempt	Sch 1 s1.6	No

15		Cabinet document		Exempt	Sch 1 s1.6	No
16		Cabinet document		Exempt	Sch 1 s1.6	No
Total No of Docs						
16						