



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 2022-245

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)	50
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: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Wednesday, 10 August 2022 10:53:23 AM

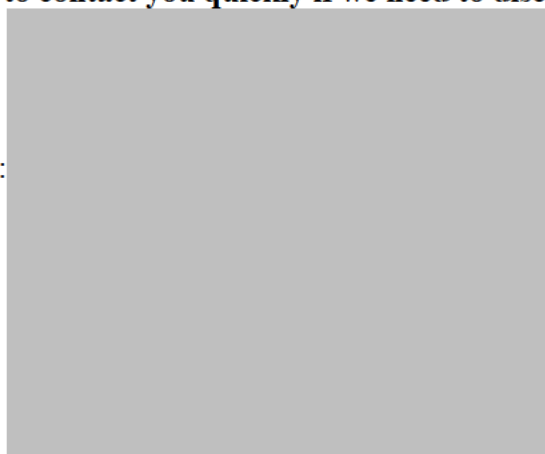
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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

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:

A large grey rectangular area redacting the user's personal details, covering the fields for Title, First Name, Last Name, Business/Organisation, Address, Suburb, Postcode, State/Territory, Phone/mobile, and 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):
Contract supplied to the Building Inspectors held between [redacted]
[redacted] This contract directly impacts the legal prospects of the Owners Corporation and individual Owners Please provide this at your earliest convenience.

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 2022-245



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 10 August 2022.

Specifically, you are seeking: *“Contract supplied to the Building Inspectors held between*



_____ This contract directly impacts the legal prospects of the Owners Corporation and individual Owners.”

Authority

As an appointed Information Officer under section 18 of the Act, I am authorised to make a decision on access or amendment to government information in the possession or control of CMTEDD.

Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 7 September 2022 however, following an extension and third-party consultations, the due date is now 21 October 2022.

Decision on access

Searches were completed for relevant documents and one document was identified that falls within the scope of your request. I have decided to grant partial access to the document.

My access decisions are detailed further in the following statement of reasons, in accordance with section 54(2) of the Act, and the document released to you is provided as **Attachment A** to this letter.

Statement of Reasons

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

- the Act;
- the content of the document that fall within the scope of your request;
- the views of consulted third parties; and
- the *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding not to grant access to the identified information are 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 document 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:*

- (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 this document may contribute to the administration of justice generally by allowing you to have a copy of the document. I am satisfied that this factor favouring disclosure carries some weight. However, this factor is to be balanced against the factors favouring nondisclosure.

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.*
- (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 nondisclosure 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, phone numbers, signatures and identifying details) could prejudice their right to privacy under the *Human Rights Act 2004*.

I have also considered the impact of disclosing information which relates to business affairs. In the case of *Re Mangan and The Treasury* [2005] AATA 898 the term 'business affairs' was interpreted as meaning 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person. The information withheld from release could reasonably be expected to unfairly prejudice the business affairs of United Investment Group (ACT) Pty Limited.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the document 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 3 days after the date of my decision. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

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 of my decision, 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



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

21 October 2022

Head Contractor Agreement
United Investment Group (ACT) Pty Ltd (ACN 157 784 471)
Project: Block 2 Section 80 Greenway - ISTR

PREAMBLE

This agreement defines the contractual relationship between [REDACTED]

By entering into this Agreement, both parties agree to be bound by the terms and conditions contained herein.

UNITED INVESTMENT GROUP (ACT) Pty Ltd

Name	United Investment Group (ACT) Pty Ltd
ACN	157 784 471
Address	Sch 2.2(a)(ii)
Phone	
United's Representative	Alen Perkovic

HEAD CONTRACTOR

Name	John Wojcicka – W2 Projects
Phone	Sch 2.2(a)(ii)
Email	

PARTICULARS

1. Site	[REDACTED]
2. Price	Sch 2.2(a)(xi)
3. Contract Works Value	
4. Performance Bonus	
5. Liquidated Damages	Not Applicable
6. Progress Claims	Monthly in advance
7. Terms of Payment	Payment will be made to the Head Contractor within 7 days of the receipt of a valid Tax Invoice
8. Works Commencement Date	21 January 2020
9. Date for Practical Completion	18 June 2020

10. Defects Liability Period	N/A	
11. Insurances	Public Liability	By the Developer
	Products Liability	By the Developer
	Contract Works	By the Developer
	Workers Compensation	By the Developer
	Professional Indemnity	By the Developer
12. Security	N/A	
13. Site Specific Requirements	N/A	
14. Special Conditions of Contract	<p>The following is agreed and accepted by both parties in relation to the works;</p> <ol style="list-style-type: none"> 1. John Richard Wojcicka is the former General Manager of Banyan Constructions Pty Ltd. 2. Banyan was engaged by the Developer to construct the Project on a Lump Sum basis however Banyan entered into Voluntary Liquidation on 21 January 2020. 3. Banyan Constructions held the Builder's Licence for the project and John Wojcicka was the nominee. 4. As of January 22, 2020 John Wojcicka has agreed to complete the project on behalf of United Investment Group (ACT) Pty Ltd on a "fee for service basis". 5. John Wojcicka has no liability for any past debts of Banyan Constructions nor any responsibility for payment of any consultants, subcontractors or suppliers required to complete the works. All costs will be borne by United Investment Group (ACT) Pty Ltd. 6. United Investment Group (ACT) Pty Ltd will apply for and will pay all associated costs for all insurances required for the works. 7. John Wojcicka will oversee all aspects of the works and utilise best endeavours to ensure all works are carried out in a tradesman like manner and will comply with the BCA and all relevant Australian Standards. 8. Defective or non-compliant works will be rectified by the relevant subcontractor. John Wojcicka will not bear any financial responsibility for the rectification of any defective or non-compliant works. 9. John Wojcicka will oversee and/or manage all aspects of OH&S in relation to the site however he will not bear any financial responsibility for losses, fines etc. that may be imposed due to the failure of subcontractors engaged by United Investment Group (ACT) Pty Ltd to abide by OH&S legislation or for failing to meet program milestones. 10. United Investment Group (ACT) Pty Ltd will engage and pay for Matrix Systems to provide OH&S consultancy services throughout the project. 11. United Investment Group (ACT) Pty Ltd will provide sufficient additional staff to assist with the efficient management of the works. This will include a Contracts Administrator, Site Foreman, Leading Hand and Construction Workers as required. 12. All preliminaries, site amenities etc. will be provided by United Investment Group (ACT) Pty Ltd as required. Any costs paid directly by John Wojcicka will be reimbursed by United Investment Group (ACT) Pty Ltd. 	

UNITED EXECUTION

Executed in accordance with Sch 2.2(a)(ii) Corporations Act 2001 (Cth):

Sch 2.2(a)(ii)

Signature		Signature	
Print Name	Alen Perkovic	Print Name	John Wojcicka
Capacity	Managing Director	Capacity	Managing Director (W2 Projects)
Date	24 January 2020	Date	24 January 2020