



**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 2021-226

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)	34
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:** Wednesday, 1 September 2021 9:42:02 PM

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**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):

Copies of emails and/or letters sent from Access Canberra to Scarlet Alliance informing Scarlet Alliance that Scarlet Alliance's new constitution has been approved, and the date on which that approval was granted. Copies of emails and/or letters sent from Access Canberra to Scarlet Alliance which reveal the reason(s) for the delay in approving the association's new constitution. Scarlet Alliance (full name: SCARLET ALLIANCE - AUSTRALIAN SEX WORKERS ASSOCIATION) is an incorporated association with Association Number A04069. I am not seeking access to personal information relating to Scarlet Alliance staff/volunteers. I am happy to have exempt material redacted and receive partial access to documents.

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 2021-226



## 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 1 September 2021.

Specifically, you are seeking: *"Copies of emails and/or letters sent from Access Canberra to Scarlet Alliance informing Scarlet Alliance that Scarlet Alliance's new constitution has been approved, and the date on which that approval was granted. Copies of emails and/or letters sent from Access Canberra to Scarlet Alliance which reveal the reason(s) for the delay in approving the association's new constitution. Scarlet Alliance is an incorporated association with Association Number A04069."*

### 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 September 2021 however following third-party consultations, the due date is now 21 October 2021.

### Decision on access

Searches were completed for relevant documents and two 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 partial access to two documents 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 the identified documents and components of these documents 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 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 these documents 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.*

I consider that disclosing the contents of the information sought would significantly contribute to open discussion and informed debate on the matters contained in the documents. I am satisfied there is a public interest in the processes and procedures for Incorporated Associations.

The release of this information would help to create positive and informed debate on issues of importance to the public.

I am satisfied that these are relevant considerations favouring disclosure in this case, and in the interests of enhancing transparency and accountability, I afford them significant weight.

I also note the FOI Act has an express pro-disclosure bias which reflects the importance of public access to government information for the proper working of a representative

democracy. This concept is promoted through the objects of the FOI Act. I have considered this overarching concept in making my decision in relation to access.

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;*

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, 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*.

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 in the CMTEDD disclosure log after 3 days after date of 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 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](mailto: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](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely



Katharine Stuart  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate  
19 October 2021



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Scarlet Alliance is an incorporated association with Association Number A04069. Emails and letters from Access Canberra to Scarlet Alliance informing Scarlet Alliance that Scarlet Alliance's new constitution has been approved, and the date on which that approval was granted. Emails and letters from Access Canberra to Scarlet Alliance which reveal the reasons for the delay in approving the association's new constitution.	CMTEDDFOI 2021-226

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	Email trail – Updating constitution	2 Sep 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	5	Letter from CITL to Scarlett Alliance	31 Aug 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
2						

**From:** [Flint, Nicole](#)  
**To:** [Kellie, Heather](#)  
**Subject:** FW: Updating constitution  
**Date:** Thursday, 2 September 2021 12:31:03 PM

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UNOFFICIAL

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**From:** Sch 2.2(a)(ii) [redacted]@scarletalliance.org.au>  
**Sent:** Thursday, 2 September 2021 12:29 PM  
**To:** Flint, Nicole <Nicole.Flint@act.gov.au>  
**Subject:** Re: Updating constitution

**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.

Thanks so much Nicole, really appreciate it.

Kind regards,  
Sch 2.2(a)(ii) [redacted]  
Administration Officer (Casual)  
Scarlet Alliance, Australian Sex Workers Association  
Office open Tuesday to Friday, 10am to 6pm  
Ph: [+612 9517 2577](tel:+61295172577)  
203/1 Erskineville Road, Newtown NSW 2042  
PO Box 854, Newtown NSW 2042  
[www.scarletalliance.org.au](http://www.scarletalliance.org.au)

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*I acknowledge and pay respect to Aboriginal and Torres Strait Islander people as the traditional custodians of the land on which I live and work.*



On Thu, 2 Sept 2021 at 12:19, Flint, Nicole <[Nicole.Flint@act.gov.au](mailto:Nicole.Flint@act.gov.au)> wrote:

UNOFFICIAL

Good Afternoon Sch 2.2(a)(ii)

Please find attached the Change of Rules Acceptance Letter.

Kind Regards

**Nicole Flint** | Client Service Officer | **Community, Industry and Trader Licensing  
Licensing and Registrations Division** Phone: 13 22 81 | Email: [nicole.flint@act.gov.au](mailto:nicole.flint@act.gov.au)  
**Access Canberra Chief Minister Treasury and Economic Development Directorate | ACT  
Government**

GPO Box 158, Canberra, ACT, 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



**From:** Flint, Nicole  
**Sent:** Tuesday, 31 August 2021 2:52 PM  
**To:** Sch 2.2(a)(ii) <[REDACTED]@scarletalliance.org.au>  
**Subject:** RE: Updating constitution

UNOFFICIAL

Good Afternoon Sch 2.2(a)(ii)

I'm very sorry for the delay. Below is the link to make the online lodgement fee of \$88.00. Once this is received, I will approve the changes.

Link: [Pay an Account \(act.gov.au\)](https://act.gov.au/pay-an-account)

Kind Regards

**Nicole Flint** | Client Service Officer | **Community, Industry and Trader Licensing  
Licensing and Registrations Division** Phone: 13 22 81 | Email: [nicole.flint@act.gov.au](mailto:nicole.flint@act.gov.au)  
**Access Canberra Chief Minister Treasury and Economic Development Directorate | ACT  
Government**  
GPO Box 158, Canberra, ACT, 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



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**From:** Sch 2.2(a)(ii) <[REDACTED]@scarletalliance.org.au>  
**Sent:** Tuesday, 31 August 2021 2:21 PM  
**To:** CITL <[citl@act.gov.au](mailto:citl@act.gov.au)>  
**Subject:** Updating constitution

**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.

Hi there,

We are an incorporated association and have submitted our updated constitution for approval in July.

I spoke with someone two weeks ago who said the constitution would be reviewed within one week, but it's now been two weeks.

I haven't been able to get through on the phone since, it just rings out.

Could someone please reply to this email or call us on [+612 9517 2577](tel:+61295172577)

We need to update our membership and put our updated constitution on our website ASAP.

Kind regards,

Sch 2.2(a)(ii)

Administration Officer (Casual)

Scarlet Alliance, Australian Sex Workers Association

Office open Tuesday to Friday, 10am to 6pm

Ph: [+612 9517 2577](tel:+61295172577)

203/1 Erskineville Road, Newtown NSW 2042

PO Box 854, Newtown NSW 2042

[www.scarletalliance.org.au](http://www.scarletalliance.org.au)

I acknowledge and pay respect to Aboriginal and Torres Strait Islander people as the traditional custodians of the land on which I live and work.

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This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.  
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**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

The Public Officer  
SCARLET ALLIANCE - AUSTRALIAN SEX WORKERS ASSOCIATION Inc  
PO BOX 854  
NEWTOWN NSW 2042

Dear Public Officer

**Amendment to the Constitution of SCARLET ALLIANCE - AUSTRALIAN SEX WORKERS  
ASSOCIATION Inc (A04069)**

Thank you for your application to amend your constitution/rules.

I am writing to inform you that the constitution of SCARLET ALLIANCE - AUSTRALIAN SEX WORKERS ASSOCIATION Inc has been accepted and placed on the public register. Please be advised that the amended constitution now applies to the governance of the association.

The *Associations Incorporation Act 1991* (the Act) lays out all matters that must be included in the constitution of an association. These are itemised in the check list attached to the application. If any of these items are not included, or they are inconsistent with the Act, the equivalent clause of the model rules will apply.

The model rules can be found on the incorporated associations page of the Access Canberra website at [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au).

If you have any questions please phone Access Canberra 13 22 81 and ask for the Community, Industry and Trader Licensing Team.

Yours sincerely

**Sch 2.2(a)(ii)**

Nicole Flint  
Community, Industry and Trader Licensing  
Access Canberra  
31 August 2021