



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 2022-189

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)	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

The FOI Information Officer
Chief Minister, Treasury and Economic Development Directorate
GPO Box 158
CANBERRA ACT 2601

Attention: Ms Katherine Stuart

Dear Ms Stuart

FREEDOM OF INFORMATION (FOI) REQUEST UNDER FOI ACT 2016

Background – I am writing further to my previous letter dated 3 December 2021 and your response dated 13 April 2022 (Ref: CMTEDDFOI 2022 – [REDACTED]).

New Request – I glean from the question-and-answer segment (ie Q1. – Q10) that it would appear that the requisite planning approval document was never lodged. That infers that the monstrosity¹ remains unapproved. I want to know for sure ie Yes or No.

Questions:

1. May I have a copy of the requisite ACT Government approval-seeking form covering *Planning and Development Act 2007*, Planning and Development Regulations 2008 (ss 1.51 and 1.53), either hardcopy or the relevant website link?
2. If neither the previous owner (ie the perpetrator) of No. [REDACTED] nor the current owner, did not lodge that form, does not the monstrosity remain unapproved?
3. Has not ACT Construction Services been derelict in their duty-of-care towards me – ie the 'victim'.
4. When will ACT Construction Services ensure compliance with the law (ie *Planning and Development Act 2007*, Planning and Development Regulations 2008 (ss 1.51 and 1.53))?

Next Steps – So, where to from here? I have now engaged the services of [REDACTED]

Epilogue – It seems to me the presumption is the then owner acted on the basis of *it's always easier to seek forgiveness than permission.*"

Yours sincerely

¹ Take a look at the monstrosity that was constructed (photo attached) and, whilst I understand you must remain completely impartial, imagine that happening in your backyard!



FREEDOM OF INFORMATION REQUEST

I refer to the application from your client, [REDACTED], under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 23 June 2022, in which he sought access to:

- *A copy of the requisite ACT Government approval-seeking form covering Planning and Development Act 2007, Planning and Development Regulations 2008 (ss 1.51 and 1.53), either hardcopy or the relevant website link?*
- *If neither the previous owner (ie the perpetrator) of [REDACTED] nor the current owner, did not lodge that form, does not the monstrosity remain unapproved?*
- *Has not ACT Construction Services been derelict in their duty-of-care towards me - ie the 'victim'.*
- *When will ACT Construction Services ensure compliance with the law (ie Planning and Development Act 2007, Planning and Development Regulations 2008 (ss 1.51 and 1.53))?*

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 21 July 2022.

Decision on access

The information your client is seeking as referred in the first point of his request is publicly available on the Environment, Planning and Sustainable Development Directorate's website at <https://www.planning.act.gov.au/tools-resources/forms>.

A search of records has failed to identify any information in relation to the remaining points of [REDACTED] request. Access Canberra has suggested that [REDACTED] or you may wish to contact Mr Joe Zuzek [Joe.Zuzek@act.gov.au], Director of CUEP Response, Compliance & Investigations to discuss the questions [REDACTED] has raised.

I am satisfied that appropriate searches were completed and that no information relevant to your client's request are held by CMTEDD.

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. A description of the access application and my decision will be published in the CMTEDD 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



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

11 July 2022