



**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 2019-086

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)	5
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, 10 April 2019 10:57:51 AM

---

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 contact details for the enquiry.

### 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):

In relation to Blocks [REDACTED] of Section [REDACTED] otherwise known as [REDACTED], Mawson (the Property): 1. A copy of the application for an occupancy certificate submitted by or on behalf of Hillcorp for the Property; and 2. A copy of the occupation certificate issued for the Property.

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: CMTEDDFOI2019-086



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 10 April 2019, in which you sought access to information in relation to Blocks [REDACTED] of Section [REDACTED] otherwise known as [REDACTED]

Specifically, you sought:

- *A copy of the application for an occupancy certificate submitted by or on behalf of Hillcorp for the Property; and*
- *A copy of the occupation certificate issued for the Property.*

### **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 13 May 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 full access to 1 document and partial access to 1 document 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 to grant partial access to the identified documents and components of these documents are as follows:

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

### 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:

Sch 2.1(a)(xiii) contribute to the administration of justice generally, including procedural fairness

### Factors favouring nondisclosure in the public interest:

Sch2.2(a)(ii) prejudice the protection of an individual’s right to privacy or any other right under the *Human Rights Act 2004*

Having considered the factors identified as relevant in this matter, I consider that release of information contained in these documents may contribute to the administration of justice generally, including procedural fairness by allowing you to have a record of the documents associated with the application for and issuing of a Certificate of Occupancy and Use.

However, when considering this finding against the factors favouring non-disclosure, I am satisfied that the protection of an individual’s right to privacy, especially in the course of complying with a legislative requirement, is a significant factor as the parties involved have provided their personal information for the purposes of obtaining relevant approvals which, in my opinion, outweighs the benefit which may be derived from releasing the personal information of the individual’s involved in this matter. These

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.

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 documents released are 50 pages or less.

### **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 26 April 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](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

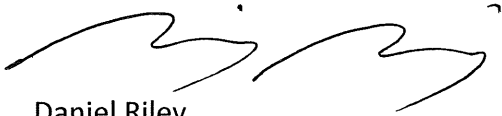
Canberra City ACT 2601

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,

A handwritten signature in black ink, appearing to read 'Daniel Riley', with a stylized flourish at the end.

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

17 April 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]	In relation to Blocks [REDACTED] of Section [REDACTED] otherwise known as [REDACTED], Mawson (the Property): 1. A copy of the application for an occupancy certificate submitted by or on behalf of Hillcorp for the Property; and 2. A copy of the occupation certificate issued for the Property.	2019-086

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Application for Certificate of Occupancy and Use	01/12/2009	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	3	Certificate of Occupancy and Use	14/12/2009	Full release	N/A	Yes
<b>Total No of Docs</b>						
2						



# Certificate of Completion of Building Work (from certifier) Application for Certificate of Occupancy and Use (COU) (by owner)



- A certifier should use this form to certify completed building work by using Parts A & B and must give this certificate and other relevant documents to the construction occupations registrar within 7 days of being satisfied the building work is complete.
- Owners of land (or their agent) should use this form to apply for a COU by using Parts A & C.
- It is an offence for a person to occupy or use, or to permit another person to occupy or use, a building or part of a building (including a swimming pool) unless a respective COU has been issued (except where it is exempt from requiring a COU).
- Send or lodge this form at: ACT Planning and Land Authority, GPO Box 1908 Canberra ACT 2601 or at the Mitchell Customer Service Centre, Cnr Lysaght & Hoskins Sts Mitchell ACT.
- NOTE: If either Part B or C cannot be completed, the form can be lodged and the missing part lodged later. However, a COU cannot be issued if the certificate (Part B) and an application (Part C) are not lodged.

**WARNING TO OWNERS: DO NOT SIGN THIS FORM UNTIL YOU HAVE READ THIS ADVISORY INFORMATION**  
It is recommended that owners seek appropriate advice to determine whether the building work and other contract requirements have been completed satisfactorily. This form should not be signed before the completion of building work.

### PART A Project - Owner or certifier to complete

Plan registration Number 093552-A  
 Block [redacted] Section [redacted] Unit 1 to 10  
 Suburb MAWSON  
 Description of work Multifunt housing - units 1 to 10

Please indicate if the project involved:  
 Electrical work  yes  no  
 Plumbing or sanitary drainage work  yes  no

### PART B - Certifier declaration

Name of Certifier DON WARING Certifier number 524

The building work referred to herein appears to me to have been completed, and I hereby give to the Registrar advice that:  
 I am satisfied that:  
 - the building work has been completed in accordance with the requirements of the Building Act 2004 and substantially in accordance with the approved plans; and  
 - the building or part of the building as erected or altered is structurally sufficient, sound and stable for the purposes for which it is intended to be occupied or used.

The following documents are required under subsection 48 of the Building Act 2004:

- Written evidence of the obtaining of any consents and approvals required to have been obtained under paragraph 27 (1) (b);
- A copy of the plan referred to in paragraph 43 (2) (a);
- A copy of all certificates issued under subsection 44 (2) in relation to the building work;
- Where the regulations require that, upon completion of the building work, the consent or approval of any person, body or authority is to be obtained - written evidence of the obtaining of that consent or approval;
- Any certificate obtained under section 47, if no certificate under that section has been obtained, a written statement to the effect that - the certifier is satisfied that the building or part of the building as erected or altered is structurally sufficient, sound and stable for the purposes for which it is to be occupied or used; and no certificate under section 47 is required;
- All other documents or papers relating to the building work referred to in paragraph 48(2)(b)(i) of the Building Act 2004.

I have provided all the relevant documents required by subsection 48(2) of the Building Act 2004. Note: Refer attached checklist on back of this form.

If the owner of the land applies for a certificate the Registrar would be justified in issuing a certificate in respect of the work under the subsection below:  
 69(1)  69(2)  69(3)  71  72 of the Building Act 2004

This building work is subject to an alternative solution under the BCA  Yes  No

I certify that the building work has been completed in accordance with Building Act 2004 and substantially in accordance with the approved plans.

[Signature]  
 Signature of certifier

### PART C - Owner (or agent) to complete

Owner details - (include ALL owners)

Owners Name(s)  
 1 HILLCORP DEVELOPMENTS  
 2 Sch 2.2(a)(ii)  
 3  
 4

A contact postal address  
P.O. Box 3671  
Manuka 2603

Contact Phone no. Sch 2.2(a)(ii)

Agent details - (if applicable)  
 Agent's name  
 Postal address  
 Contact phone no.

NOTE: You may only make this application on behalf of the owners of the property if you have appropriate written authorization from all of the owners and attached it to this application. This also applies if you are a part owner or joint owner making application on behalf of the owners.

### Declaration - (by owner or agent)

I am (or we are)

Tick one box only  the only owner(s) of the above described land;  
 the agent authorized by the owner(s) to apply for a COU on their behalf, and I have attached that authority;

I (or we) am satisfied that the building work and related requirements have been completed and hereby apply for a COU in respect of the above described work to be issued and sent to:

Tick one box only  the owner(s) address  
 the agent's address  
 Mitchell Customer Service Centre for collection

READ THE WARNING BEFORE SIGNING

Signatures of ALL owners or agent  
Sch 2.2(a)(ii)

Date 1, 12, 09



**Certifier's checklist of documents to be provided (included with this form) on application for Certificate of Occupancy and Use.**

Tick the appropriate box.

➤ Consent or approval:

- Development Approval
- Lift and Scaffolding Permit
- Survey plan (if required)
- Other (specify).....

- Other (specify).....
- Structural engineer's certificate, or
- Building Certifier Approval
- Other (specify).....
- Any application to the certifier by others.
- All plans or drawings. (if not already provided).

➤ Copies of each certificate issued for the building work under section 44 (2) of the Act:

- Footings       Slab
- Structural Framework
- Final
- Other (specify).....

➤ Any relevant document:

- Approval certificate
- Determination
- Notification or permission
- Other (specify).....  N/A.
- Any certificate or other document prepared by others (if applicable)  N/A.
- The certifier's working papers and calculations (if applicable)  N/A.

➤ Completion consent obtained from:

- DA conditions
- Fire Brigade
- Lift

*Smoke Alarms  
Emergency Lighting  
Exit Signs  
Bracing*

Note: To be completed prior to lodging C5

*System Classification Assessment/Construction Type*  
*Footings = Engineer's Certificate*  
*Slab = u u*



# ACT Building, Electrical and Plumbing Control

GPO Box 1908, Canberra ACT 2601

## Certificate of Occupancy and Use

Certificate No. **093552N1C1**

This Certificate is issued in accordance with Section 69 (2) of the Building Act.

The building work listed on this certificate has been completed substantially in accordance with the prescribed requirements and is considered fit for occupation and use.

Builder <b>HILLCORP DEVELOPMENTS PTY LTD</b>	Suburb <b>MAWSON</b> <b>MAWSON</b>	Section 	Block 
Notice of Intention to Start Work Number <b>093552N1</b>	Plans <b>093552/A /B</b>		

### Building Work

Nature of Work	Project Item Description	Unit	Other Description	Class of Occupancy	Type of Construction
OTHER	SEE DESCRIPTION		MULTI UNIT HOUSING - INCLUDES UNITS 1, 2, 3, 4, 5 & 10	1a & 7	TYPE C
OTHER	SEE DESCRIPTION		MULTI UNIT HOUSING - UNITS 6, 7, 8, & 9	2 & 7	TYPE C

### Comments

### Important note:

1. Residential building statutory warranties and residential insurance apply in relation to building work.
2. The issue, under this Part, of a certificate in respect of a building or portion of a building does not affect the liability of a person to comply with the provisions of a law of the Territory (including this Act) relating to the building or portion of the building.

  
 CARL BUNK  
 Delegate of the Registrar

**14/12/2009**  
 Date