



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 2019-110

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)	15
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: Monday, 13 May 2019 1:30:52 PM

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:

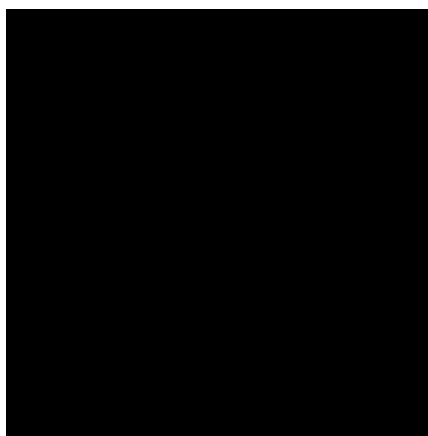
Suburb:

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):

Complaint Number: 17100500312 A complaint regarding a rectification order & building defects against Meier Constructions submitted by Heather Sanderson.

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 2019-110



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 13 May 2019, in which you are seeking access to:

- Complaint Number: 17100500312 A complaint regarding a rectification order & building defects against Meier Constructions submitted by Heather Sanderson.

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 12 June 2019.

Decision on access

Searches were completed for relevant documents and 1 document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision a schedule outlining the relevant document. This provides a description of the document that falls within the scope of your request and the access decision for that document.

I have decided to grant partial access to the document.

My access decision is detailed further in the following statement and the document released to you is provided as **Attachment B** to this letter.

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

Statement of Reason

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

- the Act;
- the content of the document that falls within the scope of your request; and
- the *Human Rights Act 2004*.

Exemption claimed

My reason for deciding not to grant full access to the identified document is 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

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process I must consider factors favouring disclosure and factors favouring 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 this document is within the ‘public interest’.

Factor favouring disclosure in the public interest under Schedule 2.1:

- (a) disclosure of the information could reasonably be expected to do any of the following:
- Sch 2.1(a)(xiii) - contribute to the administration of justice generally, including procedural fairness

Factor favouring nondisclosure in the public interest under Schedule 2.2:

- (a) disclosure of the information could reasonably be expected to do any of the following:
- Sch 2.2(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 the release of the information contained in this document may contribute to the administration of justice generally, including procedural fairness by allowing you to have a record of the documents associated with complaint # 171005-000312.

However, when considering this finding against the factor favouring non-disclosure, I am satisfied that the protection of an individual’s right to privacy, especially in the course of interacting with a government service, is a significant factor as the parties involved have

provided their personal information for the purposes of completing a complaint function. This, 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 document is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2) of the Act. 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 information held by CMTEDD within the scope of your request.

Charges

Processing charges are not applicable for this request because the total number of pages being released to you is less than fifty.

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 document released to you in response to your access application will be published in the CMTEDD disclosure log after 7 June 2019. Your personal contact details will not be published.

You may view the 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 a review by the Ombudsman of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the 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

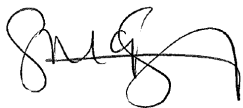
ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made by the Ombudsman under section 82(1), you may apply to the ACAT for a 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 by email at CMTEDDFOI@act.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sarah McBurney', written in a cursive style.

Sarah McBurney
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

4 June 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]		Complaint Number: 17100500312 A complaint regarding a rectification order & building defects against Meier Constructions submitted by Heather Sanderson.				CMTEDDFOI2019-110

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Complaint Number: 17100500312	5 Oct 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
1						

From: [Hodshon, Gerard](#)
To: [Hodshon, Gerard](#)
Subject: Building Constructions Complaint
Date: Wednesday, 15 May 2019 9:11:20 AM

ACT Government logo



Forwarded By: Gerard - gerard.hodshon@act.gov.au

Incident Reference # 171005-000312

Subject: Building Constructions Complaint

Date Created: 05/10/2017 09.20 AM

Note By Phone (Anna) (21/11/2017 12.37 PM)

Further to below privet note this incident is an enquiry, the names provided were [REDACTED]
Sch 2.2(a)(ii) - I advised that if either of these two have submitted an inci
p
discus with a third party.

Note By (Anna) (14/11/2017 04.42 PM)

Spoke to customer 14/11/2017 16:31
Customer explained that there has been incidents created approx 8 months ago, I have explained the customer that she would be best to speak to Building and planning or contact the person who made the original complaint (she provided me with names). Alternatively she can enter in new complaint so it is with CMT.

Auto Note By (Administrator) (05/10/2017 09.20 AM)

Positional data at time of incident submissions was:
Latitude:
Longitude:
Google Url:
Google Address: 10 Tasman Place

Customer By Phone (Courtney) (05/10/2017 09.20 AM)

Heather from Independent Strata would like to speak with the case worker in regards to a ongoing compliant against Mirer Constructions at 32/52 Lyons.
Her best number is 6209 1595

Additional Incident Details

Status: Resolved

Category: Construction/Licensing Complaints

Type of Correspondence: Complaint

Incident Address: 10 Tasman Place

Contact Information

First Name: Heather

Last Name: ?

Email Address: 14112014151948@esdd.act.gov.au.invalid

Home Number: 62091595

Mobile Number:

Office Number:

If this is not for you/your area please forward this email to accessCBR@act.gov.au to advise that it is not the correct area. The correspondence can then be re-directed appropriately.