



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-146
Date of Application	29 April 2024
Date of Decision	28 June 2024
Processing time (in working days)	42
Fees	N/A
Decision on Access	Partial Release
Information Requested (summary)	A complaint lodged against a structure in Ngunnawal.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Monday, 29 April 2024 8:45:09 AM

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. [Learn why this is important](#)

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, including title, name, business, address, suburb, postcode, state, phone, and email.

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):

A complaint was lodged against a structure and i would like to obtain the complaint raised in the complaint. Property details:

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 2024-146



FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

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 29 April 2024.

Specifically, you have sought access to the following information:

A complaint was lodged against a structure [redacted] and I would like to obtain the complaint [redacted] raised in the complaint. Property details: [redacted]

Authority

I am an Information Officer appointed by the CMTEDD 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 within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act.

Therefore, a decision is due by **3 July 2024**.

Decision on access

Searches of CMTEDD records have identified two documents within the scope of your request.

I have decided to grant **partial access** to two documents.

The records identified as relevant to your application are listed in the schedule enclosed at **Attachment A**. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

Release of documents

The information being released to you is provided at **Attachment B**.

Statement of Reasons

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request
- the views of consulted third parties
- *the Human Rights Act 2004*

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in **Schedule 2** of the Act.

Exemptions claimed

Public Interest Test

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.

Schedule 2: Factors to be considered when deciding the public interest.

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 (Section 2.1)

- *Section 2.1(a)(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 these documents may contribute to the administration of justice generally by allowing you to have a copy of the documents. I am satisfied that this factor favouring disclosure carries some weight. However, this factor is to be balanced against the factors favouring non-disclosure.

Factors favouring non disclosure (Section 2.2)

- *Section 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 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. 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 weigh 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 (names, email addresses and identifying details 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 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 and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

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, 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
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 the Freedom of Information Team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely



Emma Hotham
Information Officer
Chief Minister, Treasury and Economic Development Directorate

28 June 2024



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST						Reference NO.
A complaint was lodged against a structure [REDACTED] and I would like to obtain the complaint [REDACTED] raised in the complaint. Property details: [REDACTED]						CMTEDDFOI 2024-146
Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-3	Thread print submission with photo attachments	24 Jan 2024	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	4-8	Salesforce Case: 00850342	24 Jan 2024	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
2						

Private Note - Sch 2.2(a)(ii)

Wednesday, 24 Jan 2024, 02:35 pm

Title: Customer Entry (Auto Note)

Content:

This is an auto note of the original customer submission.

Subject:

Illegal Shed in Backyard

Category:

Land, Planning & Building > Exempt development

AC Description (forms):

Sch 2.2(a)(ii) has built a shed in the backyard that has a height of more than 2.5 meters and got a width of approximately 10 meters which is standing next to the fences. The shed has been built in Private Open Space (POS) area where it is usually illegal to build anything to avoid obstruction. The shed obstructs the Sch 2.2(a)(ii) and also obstructing Sch 2.2(a)(ii) I am not certain if it is allowed to build such sheds in POS areas that obstructs Sch 2.2(a)(ii) and Sch 2.2(a)(ii) has been claiming he got the building approval for that which I doubt. I am attaching the pictures for your reference. Please visit and confirm if a building approval was provided? If yes, on what basis such approval was provided?

Plain Description:

Location Data:

Address: [Redacted]
Latitude: [Redacted]
Longitud [Redacted]

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)



- [Close Window](#)
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Case: 00850342

AC Internal Investigation	20240124-42498	Access Canberra Owner	
Objective Reference No.		Feedback Assigned Status	Escalated
Category	Land, Planning & Building > Exempt development	Case Reference Number	AC-00850342
Comment category	Complaint	Contact Name	Sch 2.2(a)(ii)
Feedback Queues	AC CMT - Feedback	Contact Phone	
Legacy Case ID		Contact Email	Sch 2.2(a)(ii)
Rejected Reason			

Contact Information (No Account)

First Name	Last Name
Email	Phone

Case Overview

Subject	Planning - Lease compliance - Unapproved structure/Shed - [Redacted]
Description	
Desired outcome	
AC Description	Sch 2.2(a)(ii) has built a shed in the backyard that has a height of more than 2.5 meters and got a width of approximately 10 meters which is standing next to the fences. The shed has been built in Private Open Space (POS) area where it is usually illegal to build anything to avoid obstruction. The shed obstructs the Sch 2.2(a)(ii) and also obstructing Sch 2.2(a)(ii). I am not certain if it is allowed to build such sheds in POS areas that obstructs Sch 2.2(a)(ii) and Sch 2.2(a)(ii) has been claiming he got the building approval for that which I doubt. I am attaching the pictures for your reference. Please visit and confirm if a building approval was provided? If yes, on what basis such approval was provided?

Case Location

Block No.	[Redacted]	Unit Plan	
Section No.	[Redacted]	Postcode	2913
Street Address	[Redacted]	State	ACT

Suburb NGUNNAWAL
 Longitude [REDACTED]
 Formatted Address [REDACTED] NGUNNAWAL ACT 2913

Country Australia
 Latitude [REDACTED]

Complaint Categorisation & Assessment

CMT Category Level 1	Planning	Complaint Start Date
CMT Category Level 2	Lease compliance (Owner)	Contacted other party?
CMT Category Level 3	Unapproved structure – garage/shed/carport	Employer's Insurer
Voluntary Demographic Information?	<input type="checkbox"/>	Financial loss
Vehicle		Further damage risk?
Vehicle Colour		Involves vulnerable person?
Vehicle Make		Is Complaint a Ministerial or Ombudsman
Vehicle Model		On going issue
Vehicle Moving		Raised with third party?
Vehicle Type		Referred Agency
		Vulnerable person type

Demographic Information

Age	Income
Post code	Employment
Gender	

Parking Operations

Parking Hours
 Parking Type

System Information

Created By	Sch 2.2(a)(ii) 24/01/2024 2:35 PM	Last Modified By	ACT Digital, 3/02/2024 12:41 PM
Case Record Type	AC Feedback	Status	Assigned

Contact Information

Account Owner	Sch 2.2(a)(ii)	Phone	
Account Name		Fax	
Type		Website	
Industry		Employees	
Billing Address		Shipping Address	
Created By	ACT Digital, 2/02/2024 11:10 PM	Last Modified By	ACT Digital, 2/02/2024 11:10 PM
Description			

Attachments

Size	159KB	Size	278KB
Ownership	Sch 2.2(a)(ii)	Ownership	Sch 2.2(a)(ii)
View	Download	View	Download
Last Modified	24/01/2024 2:36 PM	Last Modified	24/01/2024 2:36 PM

Emails

AC-00850342 [case:_00850342:case] Planning - Lease compliance - Unapproved structure/Shed - [redacted] NGUNNAWAL

Message Date 2/04/2024 10:45 AM

Has Attachment

Email Address Sch 2.2(a)(ii)

Status **Sent**

Subject **AC-00850342 [case:_00850342:case] Planning - Lease compliance - Unapproved structure/Shed - [redacted] NGUNNAWAL**

Text Body **ACT Government Feedback Response**

Subject: Planning - Lease compliance - Unapproved structure/Shed - [redacted] NGUNNAWAL

Dear Sch 2.2(a)(ii)

Thank you for raising your concerns with Access Canberra (AC) in relation to a non-compliant shed constructed on the southwest corner of [redacted] Ngunnawal (the subject block) without required approvals.

AC Rapid Regulatory Response Team (RRRT) had conducted an inspection and also carried out a desktop study of the Access Canberra records which revealed that the shed is being constructed without required approvals. Advisory Letter has been sent to the lessee of the block owner advising them to obtain necessary approvals.

The matter has been referred to Access Canberra Compliance Monitoring and Inspection Team (CMIT) for further investigation and to monitor the progress of the

matter.

Should you wish to contact CMIT to discuss your matter further or raise further concerns, please simply reply to this e-mail. Alternatively, you can contact CMIT directly via e-mail to mit@act.gov.au.

Thank you for contacting Access Canberra and hope the above information is of assistance.

Kind regards,
 Shiwali Mahajan
 Building Inspector and Compliance Regulator | Rapid Regulatory Response Team
 Construction and Planning Regulation Branch
 Access Canberra | ACT Government
 TP – 02 6207 8629 / email: Shiwali.mahajan@act.gov.au
 8 Darling Street, Mitchell | GPO Box 158 Canberra City ACT 2601 | <http://www.act.gov.au/accesscbr>

I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.
 ref:!00D2801dej1.!500On04wISC:ref

AC-00850342 [case:_00850342:case] Planning - Lease compliance - Unapproved structure/Shed - [REDACTED] NGUNNAWAL

Message Date 25/01/2024 11:22 AM

Has Attachment

Email Address Sch 2.2(a)(ii)

Status Replied

Subject AC-00850342 [case:_00850342:case] Planning - Lease compliance - Unapproved structure/Shed - [REDACTED] NGUNNAWAL

ACT Government Feedback Response

Subject: Planning - Lease compliance - Unapproved structure/Shed - [REDACTED] NGUNNAWAL

Dear Sch 2.2(a)(ii)

Thank you for contacting Access Canberra.

Text Body This matter has been forwarded to the appropriate business area for further review. If you have any further information which may assist the business area in their review please provide by responding to this email.

Kind regards,

Resolution and Support Team
 Access Canberra | 13 22 81 | ACT Government

We acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.
 ref:!00D2801dej1.!500On04wISC:ref

Case History

3/02/2024 12:41 PM

User ACT Digital

Action **Changed Account Name from** Sch 2.2(a)(ii) **Changed Contact Name from** Sch 2.2(a)(ii)

25/01/2024 11:21 AM

User **Jess Phimphravichith**
Action **Changed Status from Unassigned to Assigned.**

25/01/2024 9:48 AM

User **Ruby Nguyen**
Action **Changed Feedback Assigned Status from Unresolved to Escalated. Changed Status from Assigned to Unassigned.**

25/01/2024 9:41 AM

User **Ruby Nguyen**
Action **Changed CMT Category Level 3 to Unapproved structure – garage/shed/carport. Changed CMT Category Level 2 to Lease compliance (Owner). Changed Subject from Illegal Shed in Backyard to Planning - Lease compliance - Unapproved structure/Shed - [REDACTED] NGUNNAWAL.**

25/01/2024 9:39 AM

User **Ruby Nguyen**
Action **Changed Status from Unassigned to Assigned.**

25/01/2024 8:35 AM

User **Jessica Betts**
Action **Changed CMT Category Level 1 to Planning.**

24/01/2024 3:42 PM

User **Jason Aoun**
Action **Changed Case Owner from AC EPD Planning to AC CMT - Feedback.**

24/01/2024 2:35 PM

User **Sch 2.2(a)(ii)**
Action **Changed Case Owner from Sch 2.2(a)(ii) to AC EPD Planning. Changed Case Reference Number to AC-00850342. Changed Account Name to Sch 2.2(a)(ii). Created.**