



**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 2018-0319

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)	16
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:** Friday, 9 November 2018 3:42:13 PM

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Dear Sir/Madam,

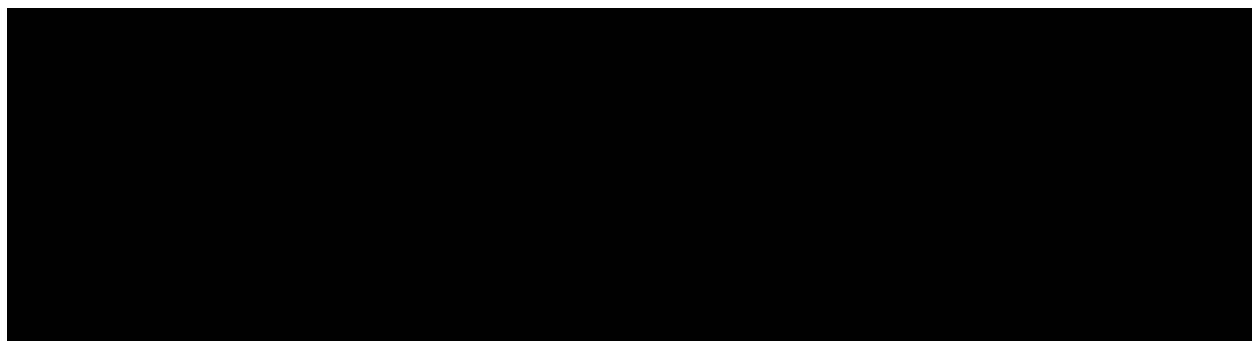
[REDACTED] seeks access to the following information under s7 of the Freedom of Information Act 2016:

- 1) Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made by, but not limited to, tenants about the Wayfarer apartments; Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 1<sup>st</sup> of October 2017 and the 31<sup>st</sup> of December 2017.

In relation to s7 of the Freedom of Information Act 2016, [REDACTED] considers that factors favouring the disclosure of the information include:

- 1) This information, if released, would enhance the accountability of Geocon as a developer that needs to comply with safety regulations; a factor relevant to consideration under Schedule 2, 2.1(xi) of the Freedom of Information Act (*reveal environmental or health risks or measures relating to public health and safety*)
- 2) This information will aid the [REDACTED] in protecting ACT workers on Geocon sites who may be exposed to dangerous and hazardous working environments due to deficiencies in workplace settings and practices under the auspices of Geocon; a factor relevant to consideration under Schedule 2, 2.1 (v) of the Freedom of Information Act (*allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official*)
- 3) If released, this documentation, as it deals with construction works, may reveal environmental or health risks or measures relating to public health and safety; a factor relevant to consideration under Schedule 2, 2.1(xi) of the Freedom of Information Act (*reveal environmental or health risks or measures relating to public health and safety*)

Contact details to respond to this request are:



Kind Regards,

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**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2018-0319



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 9 November 2018, in which you sought access to:

- *“Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made by, but not limited to, tenants about the Wayfarer apartments; Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 1st of October 2017 and the 31st of December 2017”.*

### **Authority**

I am an Information Officer appointed by the Director-General of CMTEDD 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 7 December 2018.

### **Decision on access**

Searches were completed for relevant documents and 3 documents were identified that fall within the scope of your request.

I have decided to grant full access to 1 document and partial access to 2 documents. The information redacted in the documents I consider to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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.

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 decision is below.

### **Statement of Reasons**

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

- the Act;
- the content of the documents that fall within the scope of your request;
- your views on the public interest in disclosing the government information applied for (as per section 37 of the Act); 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 (Schedule 2.1)

*(a) disclosure of the information could reasonably be expected to do any of the following:*

*(xi) reveal environmental or health risks or measures relating to public health and safety.*

#### Factors favouring non-disclosure (Schedule 2.2)

*(a) disclosure of the information could reasonable be expected to do any of the following:*

*(ii) Prejudice the protection of an individual’s right to privacy or 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 reveal environmental or health risks or measures relating to public health and safety by allowing you to have a complete record

of the interactions between members of the public and the ACT Government and the steps taken to report and address potential issues with the compliance of the building.

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 assisting in a line of enquiry with a government agency, is a significant factor as the parties involved have provided their personal information for the purposes of seeking assistance from the ACT Government in addressing an issue 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. 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 (contacts names, email addresses and mobile phone numbers) 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 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.

Folios 1-5 of the identified documents contain information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act.

### **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number folio's 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 6 December 2018. 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,



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

3 December 2018



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made by, but not limited to, tenants about the Wayfarer apartments; Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 1st of October 2017 and the 31st of December 2017.	2018-0319

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	CRM print out	04-May-2018	Partial release	Sch 2 s2.2 (a)(ii)	No
2	3-5	Controlled Activity or Construction Occupations Complaint Form	09-Oct-2018	Partial release	Sch 2 s2.2 (a)(ii)	No
3	6-8	Photographs	Undated	Full release	N/A	No
<b>Total No of Docs</b>						



## Outcomes by case with incidents

Outcome/action type	Actions taken	Created By	Text	Date time of action
Incident note	171010-000352	Jonathan Swale	Note	04/05/2018 02.10 PM
Incident note	171010-000352	Jonathan Swale	<p>Complainant gave indications in November last year that the builder was attending to the issues. I requested a follow up from the complainant 2 months ago (see below) and have not received a response. Based on the available information and lack of response from the complainant the case will be closed with no further action taken</p> <p>Staff Account</p> <p>H [REDACTED]</p> <p>Just following up on our discussions from December regarding the concrete dust in the car park at your building. In those discussions you advised that the builder had stated that they would take some form of action to mitigate the issues. Are you able to advise if this has happened?</p> <p>Regards</p> <p>Jonathan Swale Senior Investigator Staff Account</p>	07/03/2018 03.32 PM
Incident note	171010-000352	Richard Muir (Building/Planning)	<p>Staff Account</p> <p>H [REDACTED]</p> <p>I hope this finds you well.</p> <p>My apologies for the delay in responding to you on this matter.</p> <p>We have recently moved to another system which has caused a delay in some matters reaching our line area.</p> <p>I have allocated this matter to an inspector for further follow-up but in the meantime should you have any questions please do not hesitate to contact me.</p> <p>Regards</p> <p>Rick.</p> <p>Rick Muir   Manager Construction and Reactive Teams Phone 02 6205 4303 Access Canberra   ACT Government</p>	04/12/2017 10.26 PM
Action	Affected party contact	Jonathan Swale	<p>This morning I called [REDACTED] to discuss the complaint. I advised that initial research had found that concrete dust can be caused by a number of things however it is not generally a sign of a structural defect. I advised that our legislation refers generally to taking action against structural defects and may not cover this issue unless it was found to be of a structural nature.</p> <p>[REDACTED] advised that since the complaint had been lodged GEOCON had agreed to undertake repair work to resolve the issues. It was agreed that I would contact [REDACTED] at the end of December to check the status of the repairs works and follow up as necessary.</p>	28/11/2017 10.58 AM

Notes	Allocation Email	Richard Muir (Building/Planning)	<p>From Richard [mailto:Richard.Muir@act.gov.au]  Sent Thursday 23 November 2017 4:22 PM  To Swale Jonathan &lt;Jonathan.Swale@act.gov.au&gt;  Cc Muir Richard &lt;Richard.Muir@act.gov.au&gt; Alford Robert &lt;Robert.Alford@act.gov.au&gt;  Subject CRM Job Case Number 2190 Construction - Apartment Complex Cement Garage Floor Unfinished - 120 Eastern Valley Way - Ref Code - QXPWL4</p> <p>Forwarded By Richard - Richard.Muir@act.gov.au</p> <p>Comments Hey Jon  Not sure there's too much in this one for us but could you please have a look at the details and follow-up as appropriate?</p> <p>Thanks in advance and talk soon.  Rick.  Incident Reference # 171010-000352  Subject Construction - Apartment Complex Cement Garage Floor Unfinished - 120 Eastern Valley Way - Ref Code - QXPWL4  Date Created 10/10/2017 10:04 AM  Note By Phone ( Leoni ) ( 24/10/2017 02:23 PM )  C has sent letters to body corporate the strata manager and the Geocon several months ago. Only Geocon has responded advising they will not do anything.  Advised C that as on common property it may be that the issue is for body corporate to pursue with Geocon.</p> <p>Advised incident has not yet been allocated as not yet 10 working days. I said it will be fully assessed shortly and appropriate advice provided to C.  Auto Note By ( Administrator ) ( 10/10/2017 10:04 AM )  Positional data at time of incident submissions was  Google Address: [REDACTED] - 120 Eastern Valley Way Belconnen ACT 2617  Customer By CSS Web ( Anna ) ( 10/10/2017 10:04 AM )  I have an apartment in the Wayfarer building built by GEOCON.  Our complaint is the garage floor on level B1 the floor does not have a proper finish like the rest of the floors.  I strongly believe on the day the concrete was poured it rained removing a substantial amount of cement leaving the floor uneven resulting in 5 to 7mm of dust accumulating all over the floor.  I would appreciate someone coming to have a look.</p>	23/11/2017 04:22 PM
Notes	RCAC decision	Narelle Bramwell	As a result of the decision by RCAC this matter is to be assigned to Building and Planning for preliminary assessment.	17/11/2017 01:11 PM
Notes	Case Action	Tundi Hammond	<p>01/11/2017 2:15 PM  Managers approval/Assign to RCAC</p> <p>Hi Mick</p> <p>Case 2190 Incident 171010-000352 is ready to be transferred to RCAC.  Regards</p> <p>Tundi-Rose Hammond Case Manager  Customer Coordination  Phone 02 6207 9064   Email tundi.hammond@act.gov.au  A C T G</p>	02/11/2017 09:10 AM
Notes	171010-000352 - Investigation Documentation	Tundi Hammond	<p>171010-000352 - 31/10/2017 - 2:32 PM  Spoke with Cassandra Keppell regarding the complaint who advised that it needs to be transferred to RCAC as it involves different line areas.  - Cassandra and I looked up the Block and section and found that it was under ( Building approval BA - Block 8 Section 47) for address 120 Eastern Valley Way however on ACTmap it's under block 12 Section 47.</p> <p>Company Geocon Building Canberra  DA - 601629396  B20151320  2013583 Licence Number</p>	01/11/2017 12:17 PM
Incident note	171010-000352	Leoni Marshall	<p>Note</p> <p>C has sent letters to body corporate the strata manager and the Geocon several months ago. Only Geocon has responded advising they will not do anything.</p> <p>Advised C that as on common property it may be that the issue is for body corporate to pursue with Geocon.</p> <p>Advised incident has not yet been allocated as not yet 10 working days. I said it will be fully assessed shortly and appropriate advice provided to C.</p>	24/10/2017 02:23 PM
Incident note	171010-000352	Anna Smolic	<p>Customer Proxy  I have an apartment in the Wayfarer building built by GEOCON.  Our complaint is the garage floor on level B1 the floor does not have a proper finish like the rest of the floors.  I strongly believe on the day the concrete was poured it rained removing a substantial amount of cement leaving the floor uneven resulting in 5 to 7mm of dust accumulating all over the floor.  I would appreciate someone coming to have a look.</p> <p>Regards  [REDACTED]</p>	10/10/2017 10:04 AM

# Controlled Activity or Construction Occupations Complaint Form - submission confirmation

Your submission has been successful. Please keep a copy of this receipt for your records.

Date and time

09 Oct 2017 3:14:00 PM

Form submission ID

99124420171009154285

Reference number

QXPWL4

To save a copy of the completed form and receipt, from the File menu select "Save a copy". To print a copy use the Print icon.

Access Canberra

GPO Box 158  
Canberra City ACT 2601

Telephone: (02) 6207 1923

## Lease/site details - subject of the complaint

Suburb/District \*

BELCONNEN

Section \*

47

Block \*

15

Unit

Sch 2 s2(a)

If you require help with suburb/district, section or block details, visit [ACTMAPI](#).

Address line 1 \*

120 Eastern Valley Way

Address line 2

Suburb \*

BELCONNEN

State

ACT

Postcode \*

2617

## Applicant details

Title

Given name \*

Sch 2 s2(a)

Family name \*

Sch 2 s2(a)(ii)

Postal address

Address line 1 \*

Sch 2 s2(a)(ii) 120 Eastern Valley Way

Address line 2

Suburb \*

Beconnen

State \*

ACT

Postcode \*

2617

Please enter at least one phone number: \*

Home phone number

Sch 2 s2(a)(ii)

Work phone number

Mobile number

Sch 2 s2(a)(ii)

Email address \*

Sch 2 s2(a)(ii)

## Complaint details

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### Complaint type

#### Unlawful development

- Development without approval
- Development not in accordance with an approval

#### Breach of lease

- Unclean leasehold
- Unlawful Use

#### Construction work

- Building

Licensee name \*

Geocon

Licence number

- Electrical
- Plumbing
- Gas

#### Licensee

- Unlicensed
- Licence breach
- Building certifier
- Works assessor

### Complaint details

Provide a full description of your complaint \*

I have an apartment in the Wayfarer building built by GEOCON.  
Our complaint is the garage floor on level B1, the floor does not have a proper finish like the rest of the floors.  
I strongly believe on the day the concrete was poured it rained removing a substantial amount of cement leaving the floor uneven, resulting in 5 to 7mm of dust accumulating over the floor.  
I would appreciate someone coming to have a look.

Regards

Sch 2 s2(a)(ii)

Additional supporting evidence such as photographs, plans, reports etc can be uploaded to this form. Maximum total size of attachments is 10MB.

File: IMG\_20483.JPG

File: IMG\_20522.jpg

File: IMG\_20532.JPG

## Applicant acknowledgement

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I, **Sch 2 s2(a)(ii)** acknowledge:

**I have read and understood the details outlined on this form. \***

**that this complaint, including the personal information provided on this form, may be referred to another ACT Government agency or ACT Policing for the purposes of investigating the complaint or a breach of another law. \***

**that all the information given on this form and its attachments is true and correct. \***

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HEY