



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 2018-0340

| Information to be published | Status |
|---|-----------|
| 1. Access application | Published |
| 2. Decision notice | Published |
| 3. Documents and schedule | Published |
| 4. Additional information identified | Yes |
| 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 Requestion
Date: Tuesday, 4 December 2018 2:05:04 PM

Dear Sir/Madam,

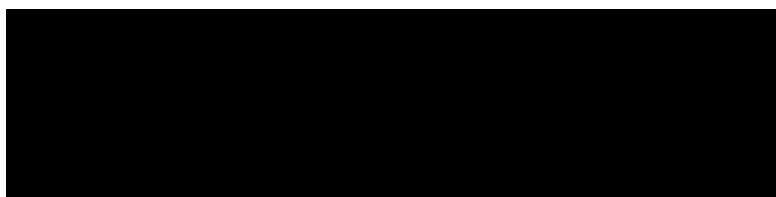
[REDACTED] seeks access to the following information under s7 of the Freedom of Information Act 2016:

- 1) Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made about the Wayfarer apartments which are located at Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 10th of June 2016 and the 4th of December 2018.

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

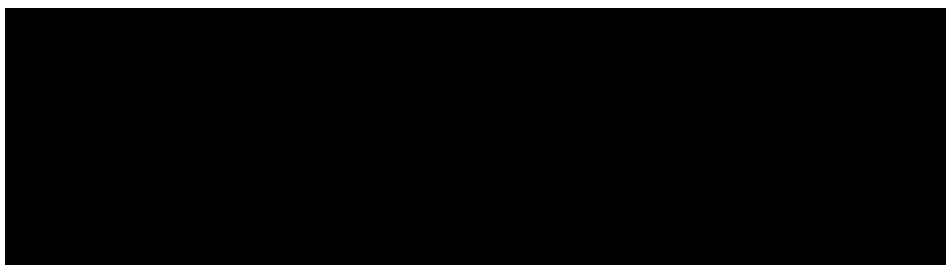
- 1) This information, if released, would enhance the accountability of Geocon as a developer that needs to comply with safety regulations; a factor relevant to consideration under Schedule 2, 2.1(xi) of the Freedom of Information Act (*reveal environmental or health risks or measures relating to public 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:



If there are any queries or concerns about this request, or any way I can assist further, please give me a call.

Kind Regards,



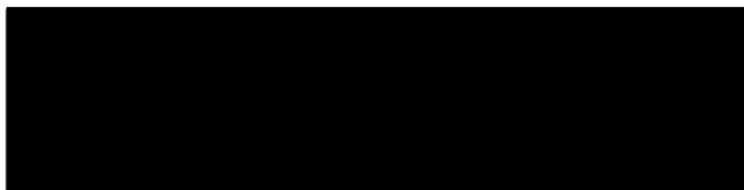




ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0340



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 4 December 2018.

Specifically, you are seeking: "Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made about the Wayfarer apartments which are located at Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 10th of June 2016 and the 4th of December 2018."

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 of section 40 of the Act, CMTEDD was required to provide a decision on your access application by 4 January 2018.

Decision on access

A search of documents was conducted and the relevant business area has confirmed that the information you have requested was provided to you in my decision dated 3 December 2018, reference number CMTEDDFOI 2018-0319.

Noting that the information requested has previously been provided to you, I have decided to refuse to deal with this part of your access application in accordance with section 43(1)(d) of the Act. In making this decision I note the operation of section 45 of the Act, which prescribes the circumstances which government information is already considered available. In this instance, I note that the information you have sought has been provided to you by CMTEDD and meets the requirements of section 45(a) of the Act.

Charges

Processing charges are not applicable for this request because no documents will be 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 after 13 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


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 (02) 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



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

{ } December 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0340

[REDACTED]

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 4 December 2018, in which you sought access to:

“Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made about the Wayfarer apartments which are located at Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 10th of June 2016 and the 4th of December 2018.”

On 11 December 2018, I made a decision in relation to the abovementioned access request, the 11 December 2018 decision advised that there were no documents within the scope of your request found to be within the control or possession of CMTEDD. Following this decision, Worksafe ACT advised they had found 1 complaint held by their office, which was not considered in my original decision.

Authority

I am an authorised 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. This decision is made pursuant to section 36 of the Act.

Decision on access

I have decided to grant partial access to the additional document. The information redacted in the document 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 the document that falls within the scope of your request and the access decision for that 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 document that falls within the scope of your request;
- the *Information Privacy Act 2014*; and
- the *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding not to grant full access to the identified document is 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 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 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:*

(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 information contained in the document may contribute to the administration of justice generally by allowing you to have a record of the interactions between a member of the public and the ACT Government in relation to a complaint made about the Wayfarer apartments.

Factors favouring non-disclosure (Schedule 2.2)

Taking into consideration the information contained in the documents found to be within the scope of your request, I have also identified the following public interest factors in

favour of non-disclosure are relevant to determine if release of the information contained within these documents is within the 'public interest'.

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

- (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

However, in considering the document and factors in favour of non-disclosure, I have considered the impact that releasing the personal information contained in the document, including name and contact information of the member of the public that lodged the complaint could have on the individual involved in this matter and I am satisfied the release of this information is unreasonable or could prejudice their right to privacy. I am of the opinion that release of this information may prejudice the protection of these individuals' right to privacy or any other right under the *Human Rights Act 2004*. I am satisfied that this factor favouring non-disclosure should be afforded significant weight as it relates to individuals privacy. Accordingly, I have decided to withhold from disclosure the identifying features and contact information of the original complainant.

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.

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. As your request sought personal information, section 28(6) of the Act provides that your access application will not be published in 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.

If you wish to request a review of my decision you may write to the Ombudsman at:

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CANBERRA ACT 2601
Via email: ombudsman@ombudsman.gov.au

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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,



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

12 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. |
|------------|---|--------------------|
| [REDACTED] | Any document held by all regulatory and complaints bodies of Access Canberra regarding complaints made about the Wayfarer apartments which are located at Block 8, Section 47, Cnr Eastern Valley Way and Aikman Drive, Belconnen ACT between the 10th of June 2016 and the 4th of December 2018. | CMTEDDFOI2018-0340 |

| Ref No | Page number | Description | Date | Status | Reason for Exemption | Online Release Status |
|-------------------------|-------------|-----------------------------------|----------|---------|----------------------|-----------------------|
| 1 | 1-2 | Email: Website Corro | 27/06/16 | Partial | Sch 2 s2.2 (a)(ii) | Yes |
| 2 | 3 | Letter From Andrew Barr: Unsigned | Undated | Partial | Sch 2 s2.2 (a)(ii) | Yes |
| 3 | 4 | Letter From Andrew Barr: Signed | 11/07/16 | Partial | Sch 2 s2.2 (a)(ii) | Yes |
| Total No of Docs | | | | | | |
| 3 | | | | | | |

From: Bron, Benjamin on behalf of BARR
Sent: Monday, 27 June 2016 12:57 PM
To: CMTEDD MLO
Cc: CMCD DLO
Subject: FW: website corro - **Sch 2.2(a)(ii)**

Categories: Kaye

Hi,

To AC (EPA) for immediate investigation, but also to prepare a CM response.

Thanks,

Ben.

Ben Bron
Office Manager
Office of the Chief Minister
Australian Capital Territory

P: **02 6205 0011**
F: 02 6205 0157
E: benjamin.bron@act.gov.au
www.chiefminister.act.gov.au

From: Webster (LA), Emma.N
Sent: Tuesday, 21 June 2016 3:54 PM
To: BARR
Subject: website corro - **Sch 2.2(a)(ii)**

Sch 2.2(a)(ii)

Andrew,

After hours trawling your ACT Government website, the ACT Access website and everything in between, I simply cannot find a way to complain about the noise from the Wayfarer development in Belconnen. The noise is ridiculous, and completely flouts the building noise regulations for the ACT. It is currently after 11:00pm, and there is still relentless echoing around Emu Bank from construction noise. They regularly commence before 6:00am, and we regularly have to deal with it after 8:00pm on weekdays and all day Saturday.

Yes – this must be a great boon for the local community. However, this is a residential area. Regardless of Geocon’s timeframes, we must be able to have times where we can just sleep and relax, without the noise from this building site. The rules were set to protect residents and allow us some peace through the rapid expansion of our great city. Please make Geocon comply with the ACT construction noise rules. It isn’t fair on current residents to have their nights, early mornings and weekends ruined to make Geocon a dollar.

I will start calling the police if they continue to flout the building EPA rules. Just another drain on local resources... when Police could be attending to more serious matters.

Please pass this on to those responsible for monitoring this type of activity.

I apologise for bringing this straight to you, the ACT Government websites are so hard to navigate to find a way to complain about this ... I simply gave up trying to find the appropriate web page or form.

Regards,

Sch 2.2(a)(ii)



ANDREW BARR MLA
CHIEF MINISTER OF THE AUSTRALIAN CAPITAL TERRITORY

Treasurer
Minister for Economic Development
Minister for Urban Renewal
Minister for Tourism and Events

Member for Molonglo

Sch 2.2(a)(ii)

Dear Sch 2.2(a)(ii)

Thank you for your email about noise levels during construction work at the Wayfarer Development in Belconnen.

Officers from the Environment Protection Authority have spoken to the developers on site and reminded them of the need to comply with the *Environment Protection Regulation 2005* permitted hours for building work and the noise standard levels for the area outside of the permitted times. These noise standard levels that apply to the Wayfarer development area are as follows: 60dB(A) between 8pm-10pm and 50 dB(A) between 10pm and 6am.

I am also sorry to hear about your problems navigating through the Access Canberra website, currently noise complaints may be submitted online via the Fix My Street form at www.accesscanberra.act.gov.au/app/forms/fixmystreet or you can contact Access Canberra on telephone 13 22 81. Improvements to the website are underway and your comments will be considered during this process.

Please contact Mr Rodney Dix, Manager Environment Regulation and Protection on phone 6207 2586 or via email rodney.dix@act.gov.au should you wish to discuss the noise matter further.

I trust that this information has been of assistance.

Yours sincerely

Andrew Barr MLA
Chief Minister

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
Phone + 61 2 6205 0011 Fax + 61 2 6205 0157 Email barr@act.gov.au





ANDREW BARR MLA
CHIEF MINISTER OF THE AUSTRALIAN CAPITAL TERRITORY

Treasurer
Minister for Economic Development
Minister for Urban Renewal
Minister for Tourism and Events

EMAILED
11/1/16

Member for Molonglo

Sch 2.2(a)(ii)

Dear **Sch 2.2(a)(ii)**

Thank you for contacting me about construction noise levels at the Wayfarer Development in Belconnen.

Officers from the Access Canberra Environment Protection Authority have spoken to the developers and reminded them of the need to comply with the *Environment Protection Regulation 2005* permitted hours for building work and the noise standard levels for the area outside of the permitted times. The noise standard levels that apply to the Wayfarer development area are as follows: 60dB(A) between 8pm and 10pm and 50dB(A) between 10pm and 6am.

Noise complaints may be submitted online via the Fix My Street form at www.accesscanberra.act.gov.au/app/forms/fixmystreet or you can contact Access Canberra on 13 22 81. Improvements to the website are underway and your comments will be considered during this process.

If you would like to further discuss the matter please contact Mr Rodney Dix, Manager Environment Regulation and Protection within Access Canberra on 6207 2586 or via rodney.dix@act.gov.au.

Thank you for bringing this matter to my attention. I trust that this information has been of assistance.

Yours sincerely

Andrew Barr MLA
Chief Minister

11 JUL 2016

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
Phone + 61 2 6205 0011 Fax + 61 2 6205 0157 Email barr@act.gov.au



@ABarrMLA

Andrew.Barr.MLA

andrewbarr