



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 2023-015

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	N/A
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	18
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

FOI TCCS 16.01.23

Good afternoon,

Thank you for processing the recent FOIs. I very much appreciate your help getting to the bottom of how, why and who constructed a car park on the Lyneham Neighbourhood Oval.

I really do apologise for draining so much of your time and resources.

There is, unfortunately, a considerable gap in the documents that the ACT government has released.

So far, the TCCS, CMTEDD and EPSDD have been unable to provide any documents regarding the actual development/sealing of the car park in late 2016, or even the existence of the sealed car park.

The documents that the ACT Government have released span right up until late 2016 (directly before the car park was sealed). These documents provide evidence that the ACT government determined that the BCC were **not** successful in gaining a direct sale of the site, for the purpose of developing a sealed car park, and that BCC **did not** have permission to seal a car park on the site.

The FOIs to date have been able to confirm that:

- The Brindabella Christian College sublease a part of block 23, section 41, Lyneham from the crown. The sublease commenced on the 1st of May 2009, for the purpose of “outdoor sports facility and ancillary thereto car parking” (refer to Item 9, Schedule 1, of the sublease). Section 8 and Schedule 1 of the sublease clearly states that the site can only be used for an ‘Outdoor Sports Facility and ancillary thereto car parking’, and that no other development is permitted (section 8.1 and 8.2 of the sub lease).
- The TCCS FOI (22-146) confirmed that no further records are held by TCCS in regards to an agreement that would allow the Brindabella Christian College permission to use block 23, section 41, Lyneham for the purposes of a car park.
- The TCCS FOI (22-146), EPSDD FOI (22/142874) and FOI EPSDD 19/28355 confirmed that the BCC sought a development exemption, to seal the car park, and sought a direct sale of the site in 2016 for the purpose of sealing the car park. However the TCCS FOI (22-146), EPSDD FOI (22/142874) confirmed that neither a relevant **development application for the car park development, nor a direct sale of land proceeded**. The TCCS FOI (22-146) confirmed that as neither process went ahead, an amended or new sublease for Brindabella Christian College was not pursued.

Despite the direct sale falling through, and after the college was told that they would NOT be exempt from needing a development approval if they wanted to seal the car park, the car park was sealed anyway, in late 2016.

All the current evidence indicates that the car park was developed by and for the Brindabella Christian College.

The main record keeping issue is that the TCCS are the custodians of the site. The land is reserved under s315 of the planning and development legislation and has a plan of management in place. They have been given the administrative responsibility for this public land, with Minister Steel as the responsible Minister for the custodianship of the site. The TCCS FOI (22-146) was able to confirm this.

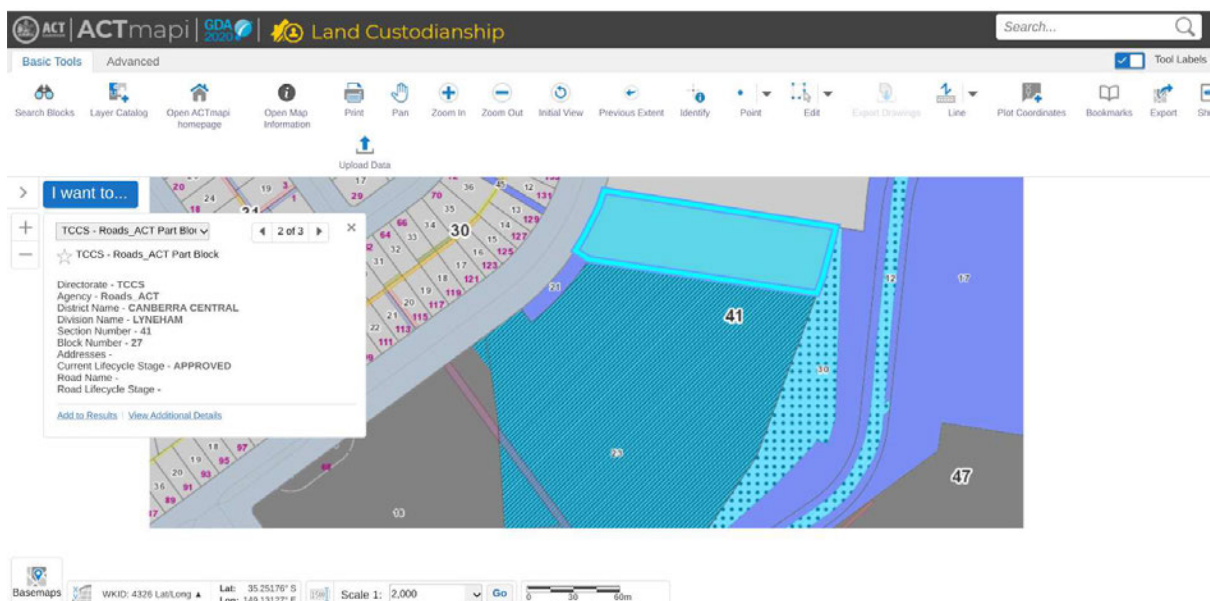
Considering that the ACT Government (TCCS) are the custodians of this public land, it's reasonable to assume that TCCS, CMTEDD or EPSDD must have some correspondence or awareness regarding the use of the site. They must have been aware of the sealing/development of the car park in late 2016, and the existence of the sealed car park on the site.

It could not have just appeared without the ACT Government having any awareness, especially considering the extensive relevant correspondence and discussion amongst the government in the 5 years directly leading up to the development of the car park.

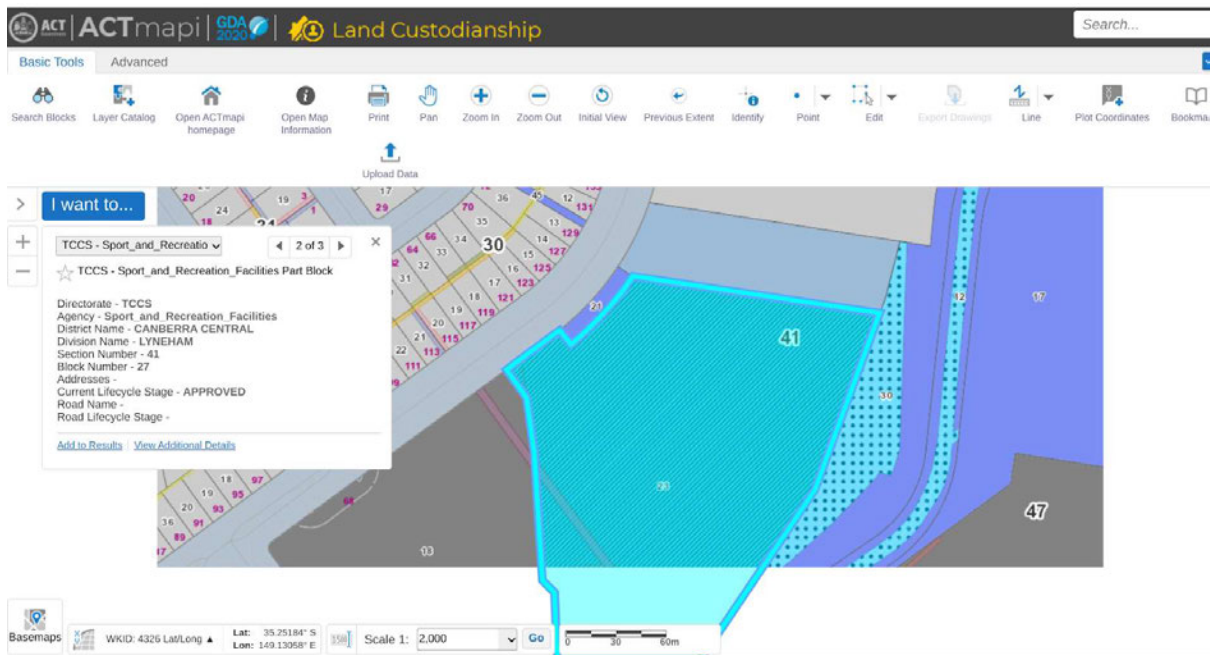
If the ACT Government genuinely had no awareness of the car park development, this is alarming and may indicate mis-management of the public land.

Furthermore, the ACTmapi land custodian map has been updated with the boundary of the car park distinguished from the remaining recreational public land area of block 23, (aka block 27), section 41, Lyneham. This strongly implies that the ACT Government has some awareness about the location of the car park, and that it exists.

- On the ACTmapi Land Custodian map, it states that the part of block 23 (represented as block 27) is managed by TCCS Roads ACT on the custodian map. This is the site of a car park development that the Lyneham community is seeking information about.



- The remainder of block 23 (aka block 27) is managed by TCCS Sport and Recreation Facilities on the custodian map.



This FOI is seeking:

- Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding the development and/or the existence of a car park on block 23, (or also known as block 27), section 41, Lyneham.
- Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding Brindabella Christian Colleges use of the site (block 23, aka block 27, section 41, Lyneham), including correspondence with Brindabella Christian College.
- Any other documents or correspondence regarding the use of block 23, section 41 (or also known as block 27, section 41), Lyneham, between the dates of June 2016 till December 2018, including correspondence with other ACT Government agencies.
- If the car park was sealed as a public car park by or for the ACT Government, it would be reasonable to assume that some design plans, contracts, tenders, Works as Executed (WAE), drawings, AP diagrams, handover maintenance plans, public Infrastructure project minutes, file notes or some planning, public Infrastructure and/or maintenance discussions would have occurred. Please share any documents regarding the development and existence of the car park between the dates of June 2016 till December 2018.

The Lyneham community are trying to understand how and why a dangerous car park was developed on a section of public land, and to what extent the ACT government were aware of the development.

Please let me know if no documents exist. I really do apologise for the persistent requests, and hope that this can be the final request.

Thank you, I am genuinely sorry to be asking so much and for being so persistent. My aim is to keep the community safe and protect public land.





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDD FOI 2023-015

[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 **15 January 2023**, in which you sought access to: Documents regarding the development and existence of the car park between the dates of June 2016 till December 2018.

Specifically, you are seeking:

- *Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding the development and/or the existence of a car park on block 23, (or also known as block 27), section 41, Lyneham.*
- *Any documents or correspondence held by TCCS, EPSDD or CMTEDD between the dates of June 2016 till December 2018 regarding Brindabella Christian Colleges use of the site (block 23, aka block 27, section 41, Lyneham), including correspondence with Brindabella Christian College.*
- *Any other documents or correspondence regarding the use of block 23, section 41 (or also known as block 27, section 41), Lyneham, between the dates of June 2016 till December 2018, including correspondence with other ACT Government agencies.*
- *If the car park was sealed as a public car park by or for the ACT Government, it would be reasonable to assume that some design plans, contracts, tenders, Works as Executed (WAE), drawings, AP diagrams, handover maintenance plans, public Infrastructure project minutes, file notes or some planning, public Infrastructure and/or maintenance discussions would have occurred. Please share any documents regarding the development and existence of the car park between the dates of June 2016 till 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 **14 February 2023**.

Decision on access

A search of CMTEDD records has failed to identify any documentation in relation to your request. The search was conducted using the information you provided.

I am satisfied that appropriate searches were completed and that no documents relevant to your request are held by CMTEDD.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because no documents are being released.

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 **17 February 2023**. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

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.

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
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 0811 or email CMTEDDFOI@act.gov.au.

Yours sincerely,

Handwritten signature of Emma Hotham, consisting of the letters 'EH' in a stylized, cursive font.

Emma Hotham
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
10 February 2023