



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 2018-0294

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)	11
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: Wednesday, 17 October 2018 9:59:36 AM

Dear Sir/Madam,

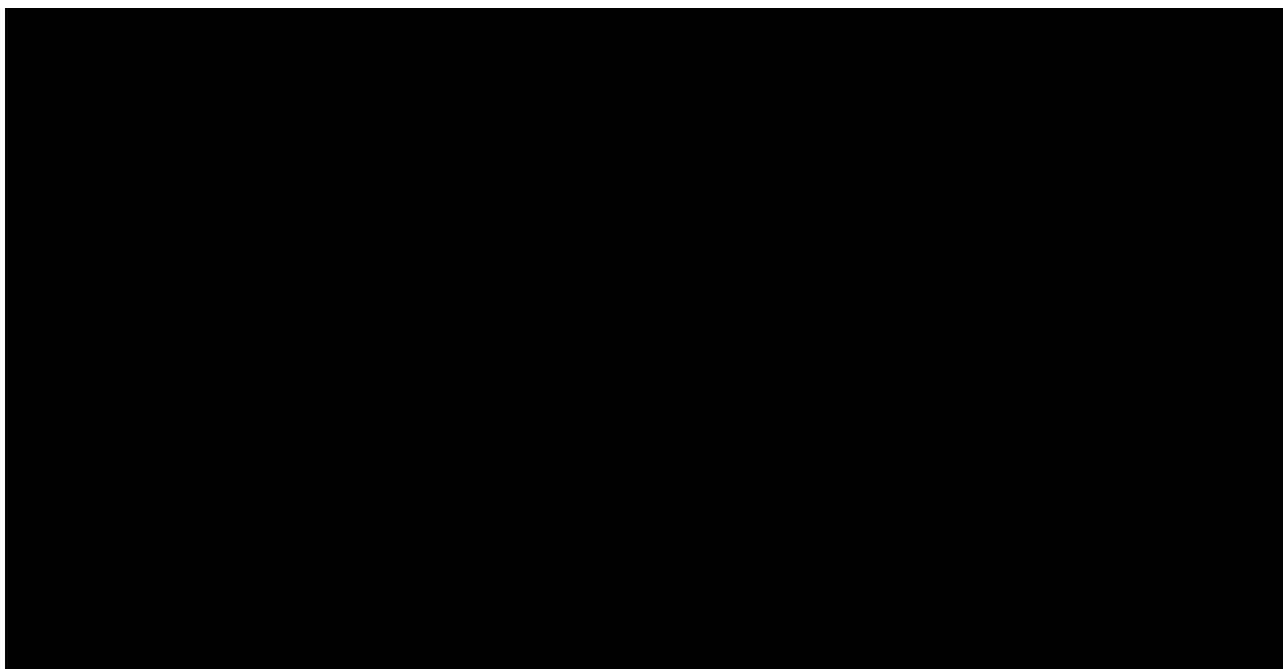
[REDACTED] seeks access to the following information under s7 of the Freedom of Information Act 2016:

- 1) Any Building Approval issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.
- 2) Any Building Commencement Notice issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.
- 3) Any other decisions, approvals or notices issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.

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

- 1) As they comprise decisions taken by a government agency, release of this information would enhance the government's accountability in line with Schedule 2, 2.1(a)(i);
- 2) This information would reveal the reason for one or more government decisions and any background or contextual information that informed the decision in line with Schedule 2, 2.1(a)(viii);
- 3) If released, this information, as it deals with construction works involving excavation, the removal of soil and potentially toxic sewerage works, would contribute to the protection of the environment, in line with Schedule 2, 2.1(a)(viii)
- 4) If released, this information, as it deals with construction works involving excavation, the removal of soil and potentially toxic sewerage works, may reveal environmental or health risks or measures relating to public health and safety.

Contact details to respond to this request are:







ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0294

[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 9 October 2018.

Specifically, you are seeking:

- “Any Building Approval issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.
- Any Building Commencement Notice issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.
- Any other decisions, approvals or notices issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 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 14 November 2018.

Decision on access

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

I have decided to grant full access to four document and partial access to five 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))

- (iii) Inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.

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

- (xi) *Prejudice trade secrets, business affairs or research of an agency or person.*

Having considered the factors identified as relevant in this matter, I consider that release of information contained in these documents may contribute to informing the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community by allowing you to have a complete record of the decisions, approvals and notices issued found within the scope of your request.

I have considered the business affairs of the builders contained within the documents. I consider it unreasonable to disclose the costs of the building works as this information could be expected to prejudice the business affairs of the builder.

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 could prejudice their business affairs.

Having applied the test outlined in section 17 of the Act and deciding that release of business 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. 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 November 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 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



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

| November 2018



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	<ol style="list-style-type: none">1) Any Building Approval issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.2) Any Building Commencement Notice issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.3) Any other decisions, approvals or notices issued under the Building Act 2004 in relation to Block 5 and 6, Section 35 in Phillip, issued on or after the 10th of May 2017.	CMTEDDFOI 2018-0294

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Building Approval	3-Aug-18	Partial release	Schedule 2 2.2(a)(xi)	Yes
2	3-4	Building Commencement Notice	17-Aug-18	Partial release	Schedule 2 2.2(a)(xi)	Yes
3	5-6	Building Commencement Notice	17-Aug-18	Partial release	Schedule 2 2.2(a)(xi)	Yes
Total No of Docs						
3						



Building Act 2004, S151
Building Approval

Project ID: B20182970

PART A - PROJECT DETAILS

Unit	Block	Section	Division (Suburb)	District	Jurisdiction
	5	35	PHILLIP	WODEN VALLEY	Australian Capital Territory

PART B - WORKS REQUIRING BUILDING APPROVAL

Item of building work to which this Building Approval relates:

Class of Occupancy	Nature of Work	Project Item Description	Other Description	Type Of Construction	Storeys	Area (m2)	Cost of Works (\$)
5	Demolition	OFFICE BUILDING	Demolition of existing buildings:	NA	7	12285.00	Sch 2 a2.2(a)(xi)
5	Other	SEE DESCRIPTION	Asbestos Removal	NA	0	0.00	Sch 2 a2.2

Work relates to the following Development Application(s):

Development Application ID	Description
201731595	Merit -

PART C - CERTIFIERS DECLARATION

I declare that in issuing this building approval under section 28 of the Building Act 2004:

- I am satisfied on reasonable grounds that the plans meet each applicable approval requirement under section 29 and is not prevented from being issued under section 30 or section 30A
- I have supplied all documents as required under 3.3 Building Act 2004
- I have prepared a notice (building approval certificate) certifying what approval requirements apply to the application and why the building approval is not prevented from being issued; and
- I have given the building approval certificate to the applicant.

In performing services as a certifier in relation to the work detailed in this application I am not in breach of my entitlement to act as a certifier in accordance with the Building Act 2004.

Full Name	Address	License Number	Expiry Date
BCA CERTIFIERS AUSTRALIA PTY LTD	3/2-6 SHEA STREET PHILLIP ACT 2606	200714	30/06/2019

Date Issued : 30/07/2018

NOTES

Utilities

This application must also be accompanied by a Statement of Compliance from each relevant utility provider (for water, sewerage, electricity and stormwater) which confirms that the location and nature of earthworks, utility connections, proposed buildings, pavements and landscape features comply with utility standards, access provisions and asset clearance zones.

Note 1: If there is no stormwater easement or Territory owned stormwater pipes located within the property boundary, a "Statement of Compliance" for stormwater from TAMS (Asset Acceptance) is not required to be obtained.

Note 2: Where there is conflict between planning and utility requirements, the utility requirements take precedence over other codified or merit provisions.

Utilities – Demolition Only

This application must be accompanied by a Statement of Endorsement for utilities (including water, sewerage, electricity and stormwater) stating that:

- all network infrastructure on or immediately adjacent to the site has been identified on the plan
- all potentially hazardous substances and conditions (associated with or resulting from the demolition process) that may constitute a risk to utility services have been identified
- all required network disconnections have been identified and the disconnection works comply with utility requirements
- all works associated with the demolition comply with and are in accordance with utility asset access and protection requirements

Note: The documentation provided to the utility provider for endorsement must be consistent with the documentation that forms part of a development approval or the documentation verified as exempt from requiring development approval by a licensed certifier.

Asbestos Advice

If documents accompanying building approval do not include an asbestos assessment report as per the Building Act 2004, the building approval must have an Asbestos Advice attached as per the Act

Privacy Notice: The personal information on this form is being collected to enable processing of your application and to enable auditing and compliance of builders and certifiers by the Government appointed auditor. The information that you provide may be disclosed to the Australian Bureau of Statistics, ACT Revenue Office and the Taxation Office. The information may also be accessed by other government agencies and commercial organisations interested in building information.



Building Act 2004, S151

Building Commencement Notice

Project ID: B20182970

PART A - PROJECT DETAILS

Unit	Block	Section	District (Suburb)	Division	Jurisdiction
	5	35	WODEN VALLEY	PHILLIP	Australian Capital Territory

Certifier's Details

Full Name	Address	License Number	Expiry Date
BCA CERTIFIERS AUSTRALIA PTY LTD	3/2-6 SHEA STREET PHILLIP ACT 2606	200714	30/06/2019

Building approval issue date: 30/07/2018

Building Commencement Notice Required for:

Class of Occupancy	Nature of Work	Project Item Description	Other Description	Type Of Construction	Area (m2)	Cost of Works (\$)
5	Demolition	OFFICE BUILDING	Demolition of existing buildings:	NA	12285.00	Sch 2 a2.2(a)(xi)

PART B - BUILDERS DETAILS

License holder's name: DECC PTY LTD

License number: 2013387

License Expiry Date: 2/10/2020

Business Address: 30/19 MCCAULEY STREET MATRAVILLE NSW 2036

Phone Number: 0290030684

If the builder is a company or partnership provide details of the nominee who will supervise the building work

Nominee's name: FRANK LOMBARDI

License number: 201310

License Expiry Date: 5/03/2019

PART C - CERTIFIER'S DECLARATION

Issue date of commencement notice: 17/08/2018

Name of Certifier Issuing Notice: BCA CERTIFIERS AUSTRALIA PTY LTD

Declaration:

This commencement notice is issued in accordance with the Building Act 2004, to the licensed builder stated above authorising the commencement of the stated building work. The issue of this commencement notice indicates that I am satisfied that the builders license authorises the work in the building approval. Where applicable for residential building work, I have been provided with a residential building insurance policy or fidelity certificate.

PLEASE NOTE:

A copy of the application for this commencement notice, this notice and where applicable the residential building insurance policy or fidelity certificate, must be given to the construction occupations registrar within one (1) week of the issue date.

This building commencement notice will end if-

- (a) for residential building work- the work is no longer insured; or
- (b) the building approval for the work ends

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Building Act 2004, S151

Building Commencement Notice

Project ID: B20182970

PART A - PROJECT DETAILS

Unit	Block	Section	District (Suburb)	Division	Jurisdiction
	5	35	WODEN VALLEY	PHILLIP	Australian Capital Territory

Certifier's Details

Full Name	Address	License Number	Expiry Date
BCA CERTIFIERS AUSTRALIA PTY LTD	3/2-6 SHEA STREET PHILLIP ACT 2606	200714	30/06/2019

Building approval issue date: 30/07/2018

Building Commencement Notice Required for:

Class of Occupancy	Nature of Work	Project Item Description	Other Description	Type Of Construction	Area (m2)	Cost of Works (\$)
5	Other	SEE DESCRIPTION	Asbestos Removal	NA	0.00	

PART B - BUILDERS DETAILS

License holder's name: ASBESTOS REMOVALIST

License number: 2015212

License Expiry Date: 11/03/2055

Business Address:

Phone Number:

If the builder is a company or partnership provide details of the nominee who will supervise the building work

Nominee's name: ASBESTOS REMOVALIST

License number: 2015212

License Expiry Date: 11/03/2055

PART C - CERTIFIER'S DECLARATION

Issue date of commencement notice: 17/08/2018

Name of Certifier Issuing Notice: BCA CERTIFIERS AUSTRALIA PTY LTD

Declaration:

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