

### **Freedom of Information Publication Coversheet**

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

FOI Reference: CMTEDDFOI 2018-0359

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)	17
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

### Yule, Kelly-Jane

From: Sent:

Thursday, 13 December 2018 4:09 PM

To:

**CMTEDD FOI** 

Subject:

Freedom of Information request

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:

#### **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):

I do not want to access the following documents in relation to my request::

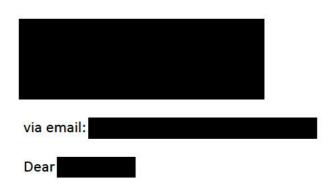
Thank you.

Freedom of Information Coordinator

All correspondance (emails, file notes, letters, recorded phone conversations) relating to Laggner Building Pty Ltd being placed on the Disciplinary Register in accordance with Part 9 of the Construction Occupations (Licensing) Act 2004.



Our ref: CMTEDDFOI2018-0359



#### 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 13 December 2018, in which you sought access to information relating to Laggner Building Pty Ltd being placed on the Disciplinary Register.

Specifically, you are seeking:

All correspondence (emails, file notes, letters, recorded phone conversations) relating to Laggner Building Pty Ltd being placed on the Disciplinary Register in accordance with Part 9 of the Construction Occupations (Licensing) Act 2004.

#### 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 15 January 2019.

#### Decision on access

Searches were completed for relevant documents and 8 documents were identified that fall within the scope of your request.

I have decided to grant full access to 7 documents and partial access to 1 document. The information redacted in the document is 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.

I have included as <u>Attachment A</u> 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 <u>Attachment B</u> to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

#### **Statement of Reasons**

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

- the Act; and
- the Human Rights Act 2004.

#### **Exemption claimed**

My reasons for deciding not to grant access to the identified document and components of this document 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 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 this document 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: (viii) reveal the reason for a government decision and any background or contextual information that informed the decision; and
  - (xiii) contribute to the administration of justice generally including procedural fairness.

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

- (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.

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in this document would reveal the reason for a government decision and any background or contextual information that informed the decision, and, contribute to the administration of justice generally, as it provides reasoning as to why Laggner Building Pty Ltd was placed on the Disciplinary Register.

The document identified contains personal information of a non-ACT Government employee. Personal information is defined by the Act as "information or an opinion about an identified individual, or an individual who is reasonably identifiable (i) whether the information or opinion is true or not; and (ii) whether the information or opinion is recorded in a material form or not." I am satisfied that information regarding an individual's identity is personal information. This includes the individual's name, position title and contact details. I consider that disclosing such information could prejudice the individual's right to privacy under the *Human Rights Act 2004* as they 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.

I therefore weigh the factor for non-disclosure more highly than the factors in favour of release in this instance.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the document 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 pages 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 16 January 2019. 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 <a href="mailto:CMTEDDFOI@act.gov.au">CMTEDDFOI@act.gov.au</a>.

Yours sincerely,

Sarah McBurney

Information Officer

**Information Access Team** 

Chief Minister, Treasury and Economic Development Directorate

10 January 2019



# FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	All correspondance (emails, file notes, letters, recorded phone conversations) relating to Laggner	CMTEDDFOI2018-0359
' <del></del> '	Building Pty Ltd being placed on the Disciplinary Register in accordance with Part 9 of the	
	Construction Occupations (Licensing) Act 2004.	

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Email: FW: Laggner Building Pyt Ltd Entered Liquidation	24/03/11	Partial	Sch 2 s2.2 (a)(ii)	No
2	2	Case Note: Laggner Building Pyt Ltd	24/03/11	Full	N/A	No
3	3	Email: Laggner Building Pyt Ltd	24/03/11	Full	N/A	No
4	4	Attachment to Email: ASIC Free Compnay Name Search	24/03/11	Full	N/A	No
5	5	Attachment to Email: Laggner Building Pyt Ltd Projects List	24/03/11	Full	N/A	No
6	6-8	Email: Laggner Building Pyt Ltd – Disciplinary Register	17/12/18	Full	N/A	No
7	9-10	Attachment to Email: Disciplinary Register FAQs		Full	N/A	No
8	11	Attachment to Email: Public Register Notification to Licensees	18/06/18	Full	N/A	No

Total No of Docs

8

From: Sch 2.2(a)(ii) To:

Johnson Stephen FW: Laggner Building Pty Ltd entered liquidation Thursday, 24 March 2011 11:39:46 AM image001.gif Subject: Date:

Attachments:

From: Sch 2.2(a)(ii)
Sent: Thursday, 24 March 2011 11:41 AM
To: 'david.middlemiss@act.gov.au'; 'steve.johnson@act.gov.au'
Subject: Laggner Building Pty Ltd entered liquidation

#### Dave/Steve

I'm unsure if you are aware about the current trading position of Laggner Building Pty Ltd (ACN) 100 124 221.

We have received information that Laggner Building Pty Ltd is currently under external administration. A check of the ASIC website yesterday confirmed a liquidator has been appointed.

Regards

Sch 2.2(a)(ii)	

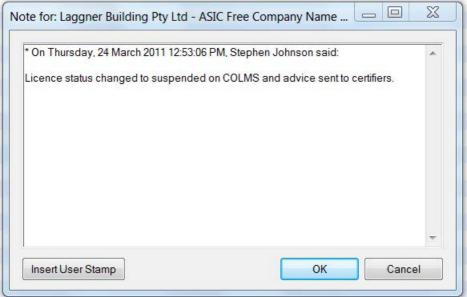
Master Builders Association of the

1 Iron Knob St, Fyshwick ACT 2609

PO Box 1211, Fyshwick ACT 2609

Sch 2.2(a)(ii)





From: <u>Johnson, Stephen</u>

Cc:Middlemiss, David; Gaze, ReubenSubject:Laggner Building Pty Ltd

**Date:** Thursday, 24 March 2011 1:46:00 PM

Attachments: Laggner Building Pty Ltd - ASIC Free Company Name Search.pdf

Laggner Building Pty Ltd projects list.PDF

#### All Certifiers

This is a notification under section 62 of Construction Occupations (Licensing) Act 2004. The licence indicate below is automatically suspended under Division 5.1 as a result of entering into a winding up, refer attached ASIC information. I have also attached a list of projects from our records where they are the builder. Please check these records and take any appropriate actions where necessary including stop notices if required.

Laggner Building Pty Ltd Licence number 200313234

Stephen Johnson
Deputy Registrar
ACT Planning & Land Authority

PH: 02 62075942 FAX: 02 62076438

Email: stephen.johnson@act.gov.au





ASIC

**National Names Index** 

Index of corporate and business names

SEARCH TIPS

Extracted from ASIC's database at AEST 12:49:22 on 24/03/2011

Name LAGGNER BUILDING PTY LTD

Australian Securities & Investments Commission

ACN 100 124 221 ABN 19 100 124 221

Type Australian Proprietary Company, Limited By Shares

Registration Date 05/04/2002 Next Review Date 05/04/2011

Status \*\* UNDER EXTERNAL ADMINISTRATION and/or CONTROLLER APPOINTED \*\*

Locality of Registered Office City ACT 2601

Jurisdiction Australian Securities & Investments Commission

These are the documents that ASIC has most recently received from or in relation to this organisation. Page numbers are shown if processing is complete and the document is available for purchase.

Date	Number	Pages	Description
06/12/2010	027384496	5	5011A Copy of Minutes of Meeting of Members, Creditors,
06/12/2010	027432118	5	205L Notification of Resolution Winding Up The Company
06/12/2010	027432117	2	505H Notification of Appointment of Liquidator By The Members

O Complete Document Listing
O Document Listing Between Dates
Exclude form 7053A (Disclosure notice for disclosing entity)

Start Date 05 Apr 2002

End Date 24 Mar 2011

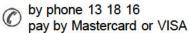
SEARCH



Biller Code: 17301 Ref: 2291001242216



Billpay Code: 8929 Ref: 2291 0012 4221 618



internet postbillpay.com.au pay by Mastercard or VISA

You can find out more about this company or order copies of the documents from the following ASIC information brokers:

Universal Title Searches

Tri-Search

Licensee Name : Laggner Building Pty Ltd

Licence No.: 200313234

Permit No.	Status	Status Date	Start Date	End Date	Suburb	Sec.	Block
	COMPLETED	08-NOV-2004	21-JAN-2004	21-JAN-2007	DEAKIN		
	COMPLETED	21-MAR-2006	29-SEP-2005	23-JUN-2007	SCULLIN	-	
	APPROVED	28-JUL-2004	28-JUL-2004	14-JUL-2007	TURNER	-	
	COMPLETED	08-FEB-2005	15-NOV-2004	10-NOV-2007	HAWKER	-	
	APPROVED	20-JAN-2005	20-JAN-2005	20-JAN-2008	TURNER	-	
	COMPLETED	15-MAY-2007	11-JUL-2005	11-JUL-2008	DUNLOP	-	
	APPROVED	28-MAR-2006	03-FEB-2005	03-FEB-2008	YARRALUMLA	-	
	COMPLETED	22-JUN-2007	17-AUG-2005	17-AUG-2008	DUFFY	-	·
	APPROVED	30-AUG-2005	30-AUG-2005	30-AUG-2008	GRIFFITH	-	·
	COMPLETED	29-JAN-2010	16-SEP-2005	16-SEP-2008	DEAKIN	-	·
	CANCELLED	14-JUN-2007	12-OCT-2005	12-OCT-2008	CURTIN	-	
	COMPLETED	19-MAR-2009	25-OCT-2005	25-OCT-2008	LYONS	-	
	COMPLETED	31-JUL-2006	01-NOV-2005	01-NOV-2008	NICHOLLS	-	
	EXPIRED	03-DEC-2010	28-NOV-2005	28-NOV-2008	DUNLOP	-	
	CANCELLED	17-APR-2008	03-APR-2006	03-APR-2009	YARRALUMLA	-	
	COMPLETED	22-NOV-2006	16-MAY-2006	16-MAY-2009	CURTIN	-	
	COMPLETED	14-APR-2009	19-OCT-2006	19-OCT-2009	YARRALUMLA	-	
	COMPLETED	27-MAR-2009	24-MAY-2007	24-MAY-2010	CURTIN	-	
	COMPLETED	17-AUG-2007	02-MAR-2007	02-MAR-2010	SPENCE	-	
	COMPLETED	02-JUL-2008	27-MAR-2008	27-MAR-2011	RIVETT	-	
	COMPLETED	02-JUN-2009	27-MAY-2008	27-MAY-2011	CHISHOLM	-	
	COMPLETED	18-AUG-2009	01-JUL-2008	01-JUL-2011	GIRALANG	-	
	COMPLETED	04-MAR-2009	16-OCT-2008	16-OCT-2011	NGUNNAWAL	-	
	COMPLETED	05-MAY-2009	24-OCT-2008	24-OCT-2011	EVATT		
	COMPLETED	28-MAY-2009	30-OCT-2008	30-OCT-2011	BANKS		
	COMPLETED	04-MAY-2009	07-NOV-2008	07-NOV-2011	DUNLOP		
	COMPLETED	30-NOV-2009	23-APR-2009	14-APR-2012	KALEEN		
	COMPLETED	05-MAY-2009	21-JAN-2009	21-JAN-2012	FLOREY		
	COMPLETED	17-JUN-2010	19-NOV-2009	08-JUL-2012	AINSLIE		
	COMPLETED	19-APR-2010	06-NOV-2009	06-NOV-2012	PAGE		
	COMPLETED	30-SEP-2010	03-MAR-2010	18-DEC-2012	MACQUARIE		
	COMPLETED	24-SEP-2010	31-AUG-2010	31-AUG-2013	CALWELL		
	COMPLETED	24-SEP-2010	02-MAR-2010	02-MAR-2013	CALWELL		

From: ACT Construction and Workplace Licensing

To:

Subject: RE: Laggner Building Pty Ltd - Disciplinary Register [SEC=UNCLASSIFIED]

**Date:** Monday, 17 December 2018 3:38:00 PM

Attachments: <u>image001.jpg</u>

Public Register Notification to Licensees.docx

Disciplinary Register FAQ.DOCX

#### Good afternoon

On 18 June 2018 the Construction Occupations Registrar (the Registrar) published the Disciplinary Register online. The disciplinary register (the register) contains information relevant to licensees who have incurred disciplinary action including suspensions, cancellations and those issued with rectification orders. Laggner Building Pty Ltd, licence number 200313234 is currently on the register and your name is included as you were the nominee and director of the corporation.

On 18 June 2018 an email was sent to all licensees and directors affected by the register. I can confirm that on 18 June 2018 at 11:34 am an email was sent to <a href="mailto:info@laggnerconstructions.com.au">info@laggnerconstructions.com.au</a> advising you of your inclusion on the register. I have reviewed your licence file and I have verified that our office utilised the last nominated email address from your 2017 licence renewal. Additionally, a letter was mailed to Theodore Laggner to the address identified in the historical company extract.

As mentioned above, those included on the register are for a variety of reasons. Laggner Building Pty Ltd is displayed on the register due the corporation's licence being automatically suspended under Section 49 of the *Construction Occupations (Licensing) Act 2004* (COLA), as the corporation entered into a winding up. Information has been obtained from the Australian Securities Investment Commission which evidences that the corporation entered into a winding up and a liquidator was appointed between the period of 2010 to 2012.

Under COLA the Registrar must make available online a register of disciplinary action and suspensions and there are certain circumstances which allow for the removal of information from the register, however suspensions under Section 49 of COLA are not included. The information will appear on the Register for a period of 10 years and are automatically removed once 10 years have passed. However if the information is incorrect the Construction Occupations Registrar has the power to remove or amend the information. If you believe our information is incorrect you can write to the Registrar at <a href="mailto:cwpl@act.gov">cwpl@act.gov</a> and a review can be undertaken if deemed necessary.

I have attached to this email a copy of the original letter notifying of the implementation of the register and frequently asked questions. Additionally, I note that you are utilising an email address that we do not have on record. To ensure that you are receiving important information from our office, you can update your information online at the following link <a href="https://www.accesscanberra.act.gov.au/app/answers/detail/a">https://www.accesscanberra.act.gov.au/app/answers/detail/a</a> id/2797/kw/updating%20details.

I trust this information is of assistance, however if you would like further clarification please contact me on 6207 8096.

Kind regards,

Rachelle Blanch| Assistant Manager, Construction and Workplace Licensing

Phone: 02 6207 8096 | Email: cwpl@act.gov.au

**Access Canberra | ACT Government** 

GPO Box 158, Canberra City ACT 2601 | www.act.gov.au/accessCBR

cid:image009.jpg@01D31C1B.E0820B30

From:

**Sent:** Thursday, 13 December 2018 1:17 PM

**To:** ACT Construction and Workplace Licensing <cwpl@act.gov.au>

**Subject:** Laggner Building Pty Ltd - Disciplinary Register

I phoned your office today at 9:42am speaking with a lady named Courtney. I was asked to email my concerns seeking urgent information from you.

I was a director of a former company named Laggner Building Pty Ltd and have just this morning been notified that my old company has been wrongfully placed in your Disciplinary Register on your ACT Government website. Learning about this, I am truely angered and deeply shocked.

I had no spoken warning or written notice about being wrongfully placed in your list as a known builder who causes defective workmanship or a lack of constructing to national building compliance. I have never had any known substantiated complaint against either my former or current building company. I have no information as to why this has been done.

I ask you to promptly confirm with me the correspondence of any rectification order sent and full details (timing of order, address and owners details, nature of any defective work) of any rectification order served against Laggner Building. Laggner Building Pty Ltd was simply deregistered in 2010 using the correct process in a solvent and good manner.

I am seeking immediate removal from your list as this public list is detrimental and defamatory and will reflect on my current building company in a negative way. What is your process for the right of reply and successful removal from your list?

A formal reply in a fast manner is asked for as I am currently seeking legal advise and action against your decision in publicly aiming to weaken my company standing.

We boast a long history of building in Canberra and the surrounding area and intend to continue this.

Sincerely,





# Disciplinary Register FAQ'S Website Information

#### What is the disciplinary register?

The disciplinary register is a list of licensees who have incurred suspensions, cancellations, occupational discipline and disciplinary action against their Construction Occupation Licence in the last ten years.

The disciplinary register is accessible to the public and will be updated when disciplinary action or suspension has been taken against a licensee.

Particulars which are required to be displayed in the register are determined by the Construction Occupations (Licensing) Act 2004 and the Construction Occupations (Licensing) Regulation 2004. The Construction Occupations Registrar may also include any other details considered appropriate in the register.

#### Why am I on the disciplinary register?

You are appearing on the disciplinary register as you are the individual, nominee, director or partner of a construction occupation licence which has incurred either suspension, cancellation, occupational discipline or disciplinary action in the last 10 years.

I am a nominee, director or partner of a corporation/partnership who appears on the disciplinary register, why is my information appearing on the disciplinary register?

As a nominee, director or partner of a corporation/partnership you are responsible for any occupational discipline or suspensions which have been taken against a licence in the capacity of a related party.

A related licence means a licence issued under the Construction Occupations (Licensing) Act 2004 held by a related licensee. A related licensee means the following:

- A director of a corporation
- A partner of a partnership
- A nominee of a corporation or partnership

Any discipline or suspension taken against your individual licence reflects other corporations or partnerships of which you are associated with and will also be recorded in the register.

A related licensee does not mean a subcontractor engaged by an individual, partnership or corporation who holds a construction occupation licence.



#### How long does my information appear on the disciplinary register for?

Details of disciplinary action or suspension which have occurred in the last ten years will appear on the register. Once ten years have passed since the date disciplinary action or suspension was recorded against your licence, it will automatically be removed from the public register.

The Construction Occupations Registrar maintains the right to keep a record of information removed from the register.

#### Can my information be taken off the disciplinary register?

If you were subject to rectification orders, contravention of rectification orders or an interim licence suspension under section 59 of the Construction Occupations (Licensing) Act 2004 you may apply for removal of the information from the register. The Registrar must be satisfied that no further information in relation to rectification orders, contravention of rectification orders or interim licence suspensions have been recorded against the licensee and it is 5 years or longer since the day, or last day to which the action occurred.

Requests to be removed from the disciplinary register can be addressed to the Construction Occupations Registrar and emailed to <a href="mailto:cwpl@act.gov.au">cwpl@act.gov.au</a>. The Registrar maintains the right to keep a record of information removed from the register.

#### **Construction and Workplace Licensing Contact Information**

Phone: 6207 8096

Email: cwpl@act.gov.au



Dear licence holder,

#### **Notification of Public Register of Disciplinary Actions**

I am writing to you as you are the holder of a construction occupation licence in the Australian Capital Territory and as such will be affected by the implementation of the online register of disciplinary actions (the disciplinary register).

The Construction Occupations (Licensing) Act 2004 (the Act) requires that a register of licensees must be made available on a website. Presently there is a register available on the Access Canberra website which displays all current licensed construction occupation licence holders. The disciplinary register is an additional register that is required to be published and will include information relevant to the disciplinary action taken against each licensee.

You have been identified as a licensee who has been subject to suspension or occupational discipline in the last ten years. The disciplinary register of licensees must contain details of a licensee's suspension and details of any form of occupational discipline taken against the licensee in the last ten years.

The details of your suspension or occupational discipline will be displayed on the disciplinary register. This letter is notice that the register will be available for the public to view via the Access Canberra website from today.

For further information about the discipline registrar, I first direct you to the provisions of the Act. Should you have any questions in relation to the register please contact the Construction and Workplace Licensing team of Access Canberra on 6207 8096 or <a href="mailto:cwpl@act.gov.au">cwpl@act.gov.au</a>.

Yours sincerely

Construction and Workplace Licensing

18 June 2018