



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 2021-177

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	No
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	8
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: 
To: [CMTEDD FOI](#)
Subject: FOI REQUEST - PRIVATE BUILDINGS CLADDING SCHEME
Date: Thursday, 22 July 2021 9:37:19 AM


Good morning,

RE: FREEDOM OF INFORMATION REQUEST – PRIVATE BUILDINGS CLADDING SCHEME

I write to request under the *Freedom of Information Act 2016* all document generated for or directed to the Minister for Sustainable Building and Construction regarding the design and implementation of both Phase One and Phase Two of the Private Buildings Cladding Scheme. This request includes, but is not limited to, general briefs and Question Time briefs, internal correspondence, and Ministerial directions.

This request does not include Estimates briefs or Annual Reports briefs.

I ask that my request be transferred to other entities that may hold relevant documents. Duplicate documents may be excluded.

Should you require any further information or clarification about my request, please contact my office on 

Kind regards,





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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-177



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 22 July 2021, in which you sought access to:

- *“...all document generated for or directed to the Minister for Sustainable Building and Construction regarding the design and implementation of both Phase One and Phase Two of the Private Buildings Cladding Scheme.”*

I note your request was partially transferred to Major Projects Canberra (MPC) on 23 July 2021 as they hold most of the documents. MPC will respond separately.

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 19 August 2021.

Decision on access

Searches were completed for relevant documents and one Cabinet document was identified that falls within the scope of your request.

I have decided to refuse access to the entire Cabinet document as the information within it is contrary to the public interest information under section 1.6 of Schedule 1 of the Act.

In accordance with section 54(2) of the Act a statement containing the reason for my decision is below.

Material considered

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

- the Act; and
- the content of the Cabinet document that falls within the scope of your request.

Exemption claimed

Contrary to the public interest information under schedule 1 of the Act

The Cabinet document that has been identified as being within the scope of your request is entirely composed of information that is considered to be contrary to the public interest information under section 1.6 of Schedule 1 of the Act as it is Cabinet information.

In reviewing the document, I note the requirements of schedule 1 section 1.6(2) of the Act which states that the exemption for Cabinet Information does not apply to 'purely factual information' unless the disclosure of the information would involve the disclosure of a deliberation or decision of Cabinet and the fact of the deliberation or decision has not been officially published. In the case of *Parnell & Dreyfus and Attorney-General's Department* [2014] AICmr 71, the Australian Information Commissioner stated that the term 'purely factual material' does not extend to factual material that is an integral part of the deliberative content and purpose of a document or is embedded in or intertwined with the deliberative content in such a manner that it is impractical to separate it from the other content.

Having reviewed the document, I consider that the purely factual information within the document identified is an integral part of the deliberative content and as stated by the Commissioner, the analysis and views in the document would be robbed of their essential meaning without incorporation of this material. I am satisfied that disclosure of this purely factual information would involve the disclosure of a deliberation or decision of Cabinet.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request as no documents are being 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. Your original access application and my decision in response to your access application will be published in the CMTEDD disclosure log 3 days after the date of my decision. 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 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



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

3 August 2021