



**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 2023-176

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)	35
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] >  
**Sent:** Friday, 19 May 2023 12:10 PM  
**To:** CMTEDD FOI  
**Subject:** Request for invoice Mills Oakley investigation review

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. Learn why this is important<<http://www.act.gov.au/emailsecurity>>

Morning

I am requesting under foi all invoices available, paid by the territory to Mills Oakley for investigation of access Canberra and their conduct against the business entity pink frosting.

This work was engaged by David Snowden on the 18th of December 2020. [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD FOI 2023-176

[REDACTED]

[REDACTED]

[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 **19 May 2023**, in which you sought access to:

*“All invoices available, paid by the territory to Mills Oakley for investigation of Access Canberra and their conduct against the business entity pink frosting.”*

### Authority

As an appointed Information Officer under section 18 of the Act, I am authorised to make a decision on access or amendment to government information in the possession or control of CMTEDD.

### Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision within 20 working days. Due to third party consultation process, an additional 15 working days were applied. Therefore, a decision and response are due on **11 July 2023**.

### Decision on access

Searches were completed for relevant information and one document was identified that fall within scope of your request. I have decided to grant **partial access** to this document relevant to this request as I consider the disclosure of the relevant document is contrary to public interest.

I have included as **Attachment A** to this decision the document schedule. This provides a description of the access decision for the document. The document released to you is provided as **Attachment B** 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;
- the content of the documents that fall within the scope of your request;
- the views of a third party;
- the *Human Rights Act 2004*.

## Exemption claimed

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2

### The public interest information under schedule 2 of the Act

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 this document is within the ‘public interest’.

### Factors favouring disclosure in the public interest:

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

*(iii) inform the community of the government’s operation, including policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.*

I note that the document within scope of this request may inform the community of the government’s operations and provide confirmation of some government processes in dealing with the community. I have applied some weight to this factor.

Factors favouring nondisclosure in 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;*

*(xii) prejudice trade secrets, business affairs or research of an agency or person;*

*(xii) prejudice an agency's ability to obtain confidential information;*

*(xiii) prejudice the competitive commercial activities of agency.*

Having reviewed the document, I consider that the protection of an individual's right to privacy, especially in the course of dealings with the ACT Government is a significant factor as the parties involved have provided their personal information. When considering the information and factors in favour of nondisclosure, I have considered the personal and business information contained in the documents. I consider it unreasonable to release information that could identify the details of the person or persons that have been in contact or provided works for the ACT Government. I believe the 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 nondisclosure should be afforded significant weight as it relates to the individuals' privacy.

Businesses working with Access Canberra also have the right to expect that their business affairs will not be prejudiced by providing services to a government agency. The release of hourly rates and time spent could reasonably impact on the competitive commercial activities of the business as the full amount has been disclosed. I also note that refusing access to the hours spent and hourly rates will ensure no prejudice towards competitive commercial activities of an agency, as this information is deemed confidential commercial information, the disclosure of which could prejudice the ACT government's ability to secure these types of services in the future.

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 that 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**

Processing charges are not applicable for this request because the number of 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 and my decision will be published on the CMTEDD disclosure log after 14 July 2023. Your personal contact details will be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>

## 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, 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](mailto:actfoi@ombudsman.gov.au)

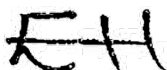
## ACT Civil and Administrative Tribunal (ACAT) Review

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  
15 Constitution Avenue  
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](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



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

11 July 2023



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
<i>...all invoices available, paid by the Territory to Mills Oakley for investigation of Access Canberra and their conduct against the business entity Pink Frosting.</i>	CMTEDDFOI 2023-176

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-5	Tax Invoice	04/05/2021	Partial	Sch 2 s2.2 (a)(ii) Sch 2 s2.2 (a)(xi) Sch 2 s2.2 (a)(xii) Sch 2 s2.2 (a)(xiii)	Yes
<b>Total No of Docs</b>						
1						

Your Reference:  
Our Reference: AZKC:7147725  
Date: 04 May 2021  
Invoice No: 448454

Access Canberra  
Chief Minister, Treasury and Economic Development Directorate  
GPO Box 158  
CANBERRA ACT 2601

---

**TAX INVOICE**

---

Account period: 11 January 2021 to 19 March 2021

**SUMMARY OF ACCOUNT**

**Re: Access Canberra - Review of Investigation Process (PF)**

Professional Fees	\$22,809.00
Disbursements	\$0.00
GST	\$2,280.90
<b>TOTAL (Incl. GST)</b>	<b>\$25,089.90</b>
Previous balance outstanding	\$ 0.00
<b>Total Now Due:</b>	<b>\$ 25,089.90</b>

We thank you for your instructions in this matter and attach detailed information supporting this tax invoice.  
If you should have any questions regarding this account, please do not hesitate to contact our offices.

Yours faithfully  
**Mills Oakley**

Sch 2.2(a)(ii)

**E & OE**

**TERMS & CONDITIONS**

Unless other terms have been agreed, **STRICTLY 14 DAYS PAYMENT TERMS** apply from the date of this invoice. **Interest may be charged under the Legal Profession Act 2006 Section 281 on any amount outstanding after 30 days at the rate of 2.10%.** Please note that Mills Oakley will retain your original file for a period of 7 years. After this time, your file will be destroyed. Please advise us in writing should you wish the original file be sent to you once the matter has been finalised. E. & O.E.

**PAYMENT DUE: 18 May 2021**



**ACCOUNT DETAILS****Professional Fees**

<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
11 Jan 21	Sch 2.2(a)(ii)	Perusal of documents for overview of matter; consider issues; plan process		Sch 2.2(a)(xi), Sch 2.2(a)(xii), Sch 2.2(a)(xiii)
13 Jan 21		Collating and reviewing material provided by client		
14 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
15 Jan 21		Attendance on Sch 2.2(a)(ii) regarding plan for matter and immediate next steps to progress process		
15 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
19 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
20 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
21 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
22 Jan 21		Confer with Sch 2.2(a)(ii) regarding investigation and next steps		
22 Jan 21		Attendance on Sch 2.2(a)(ii) regarding review and analysis of documents and progress of process		
22 Jan 21		Preparing skeleton investigation review report		
27 Jan 21		Perusal of chronology and background material		
27 Jan 21		Perusal of chronology and evidence matrix as prepared by Sch 2.2(a)(ii) consider issues; attendance of Sch 2.2(a)(ii) regarding next steps		
27 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
28 Jan 21		Reviewing material and preparing chronology of Access Canberra investigation		
01 Feb 21		Drafting skeleton report		
23 Feb 21		Perusal of relevant materials; consider issues; drafting report		
24 Feb 21		Perusal of background material; summarising policies		
24 Feb 21		Drafting non-substantive parts of report		
25 Feb 21		Drafting report		
25 Feb 21		Amending of Chronology		
25 Feb 21		Review and summarise policies; input into draft report		
03 Mar 21		Drafting and finalising report		
04 Mar 21		Review policies; input into investigation report		
05 Mar 21		Input into Investigation Report; review report; email to Sch 2.2(a)(ii) to settle		
05 Mar 21		Drafting and finalising report; email draft report to Access Canberra for review and comment		
10 Mar 21		Attendance at meeting with Access Canberra and Sch 2.2(a)(ii) to discuss draft report		
11 Mar 21		Drafting and finalising report		
12 Mar 21		Drafting and amending report on basis of comments from Access Canberra		
15 Mar 21		Review and input into report		
17 Mar 21		Drafting Executive Summary of report; email to Access Canberra providing Executive Summary of report		
19 Mar 21		Attendance at meeting with Sch 2.2(a)(ii) and Access Canberra to discuss further iteration of draft report		



If you have any concern about our legal costs, or our legal services, please do not hesitate to speak to Sch 2.2(a)(ii)  
In the event of a dispute in relation to legal costs the Legal Profession Act 2006 provides that you may:

- Apply to have the bill of costs assessed under Division 3.2.7 of the Act within 12 months after the bill has been given to you;
- Apply to have the cost agreement set aside under Section 288 on the basis that it is not fair and reasonable.

**REMITTANCE ADVICE**

**NEW CONTACT DETAILS**

Have you moved or are you changing details soon? Please complete this slip:

		<b>Date new details effective from:</b>			
<b>Name</b>					
<b>Main Contact</b>					
<b>Street address</b>			<b>Postcode</b>		
	<b>Suburb</b>			<b>Postcode</b>	
<b>Mailing address</b>			<b>Postcode</b>		
	<b>Suburb</b>			<b>Postcode</b>	
<b>Email</b>					
<b>Telephone</b>	<b>Primary</b>		<b>Secondary</b>		<b>Mobile</b>

**1.  ELECTRONIC FUNDS TRANSFER**

Please fax this advice or your remittance to +61 3 9605 0933 or email [accounts@millsoakley.com.au](mailto:accounts@millsoakley.com.au) stating the invoice number and the amount paid once payment has been made in order to identify your payment.

Transfer Amount: **\$25,089.90**

Bank: **Westpac**      BSB: Sch 2.2(a)(xi), Sch 2.2(a)(xii)  
 Account: Sch 2.2(a)(xi), Sch 2.2(a)(xii)  
 Account Name: Sch 2.2(a)(xi), Sch 2.2(a)(xii)  
 Swift Code (overseas transfer only): Sch 2.2(a)(xi), Sch 2.2(a)(xii)

**Please quote reference AZKC:7147725:448454 [Payee/Client Name]**

**2.  CHEQUE, MONEY ORDER or BANK CHEQUE**

Please return this advice with your cheque payable to Mills Oakley, PO Box 453, Collins Street West, MELBOURNE VIC 8007 for **\$25,089.90**. Please do not deposit at a bank.

Invoice Date: 04 May 2021  
**Due Date: 18 May 2021**  
 Our Ref: AZKC:7147725  
 Payor: Access Canberra (Please change payor name if not being paid by quoted payor)  
 Tax Invoice 448454

**3.  CREDIT CARD PAYMENT**

If you wish to pay by telephone, please call the Finance Department on +61 3 9605 0818 and fax a signed authority to +61 3 9605 0933.  
 Alternatively please post this advice to Mills Oakley, PO Box 453, Collins Street West, MELBOURNE VIC 8007.  
 We accept payment by  Visa  Mastercard  American Express

Card Number: \_\_\_\_\_

Expiry Date: \_\_\_\_ / \_\_\_\_

Amount: **\$25,089.90**

Cardholder Name: ..... Signature.....

**Please note a GST inclusive credit card surcharge applies to all credit and debit card payments. In compliance with the Competition and Consumer Amendment (Payment Surcharges) Act 2016 the surcharge will not be more than what it costs to process the payment. For more information please contact the Finance Department on +61 3 9605 0818.**

Our Ref: Sch 2.2(a)(xi), Sch 2.2(a)(xii)  
 Tax Invoice 448454