



**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 2023-329

| 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       |



## 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 September 2023**. Specifically, you have sought access to the following information:

1. *Total number of rectification orders issued to builders each year;*
2. *Total number of rectification orders issued to nominees each year;*
3. *Total number of rectification orders issued to Construction companies and/or partnerships/other in each year;*
4. *Total number of builders who have become insolvent and/or initiated or declared bankruptcy within said date range;*
5. *Total number of nominees in the ACT who have become insolvent and/or initiated or declared bankruptcy within said date range;*
6. *Total number of Construction companies and/or partnerships/other licensed in the ACT who have become insolvent and/or initiated or declared bankruptcy within said date range;*
7. *Total number of building licenses issued each year;*
8. *Total number of building licenses suspended each year;*
9. *Total number of building licenses cancelled each year.*

### 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 30 working days. A decision and response are due on **26 October 2023**.

### Decision on access

Searches were completed for relevant information and the business area has generated a written response, specifically addressing each section of your application. I have decided to grant **full access** to the material within scope. The information being released to you is provided at **Attachment A**.

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

### **Statement of Reasons**

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, and
- 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.
- I did not identify any Schedule 1 provisions as relevant to this request.

### **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 interest lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

Taking into consideration the information 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 in the public interest:**

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

*(ii) contribute to positive and informed debate on important issues or matters of public interest.*

I have placed substantial weight on the above factor favouring disclosure. It is reasonable to expect that information about this topic may be of interest to others within the Canberra community and contribute to informed debate about issues of interest.

I did not identify any factor favouring nondisclosure and have decided to release this information to you in full.

### **Charges**

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50.

### **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. 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-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 on the 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](mailto:actfoi@ombudsman.gov.au)

## **ACT Civil and Administrative Tribunal (ACAT) Review**

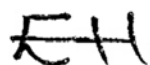
Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

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  
Chief Minister, Treasury and Economic Development Directorate

10 October 2023

## Access Canberra Response to FOI2023-329

1. Total number of rectification orders issued to builders each year.

*Table 1: Rectification orders issued to builders, companies, nominees, and directors.*

| Year    | Builder | Company | Nominee | Director | Total number of Rectification Orders issued |
|---------|---------|---------|---------|----------|---|
| 2023-24 |         | 1       |         |          | 1   |
| 2022-23 | 3       | 6       |         |          | 9   |
| 2021-22 | 2       | 6       |         |          | 8   |
| 2020-21 |         | 6       | 2       | 2        | 10  |
| 2019-20 |         | 4       | 1       |          | 5   |

2. Total number of rectification orders issued to nominees each year.

See the table 1 above.

3. Total number of rectification orders issued to Construction companies and/or partnerships/other in each year.

See the table 1 above.

4. Total number of builders who have become insolvent and/or initiated or declared bankruptcy within said date range.

*Table 2: Builders who have become insolvent and/or initiated or declared bankruptcy.*

| Year    | Number of builders insolvent/in administration |
|---------|--|
| 2022-23 | 5  |
| 2021-22 | 5  |
| 2020-21 | 3  |
| 2019-20 | 0  |

5. Total number of nominees in the ACT who have become insolvent and/or initiated or declared bankruptcy within said date range.

Access Canberra has no records of a nominee entering personal bankruptcy or insolvency for the 2019-20 to 2022-23 date range.

6. Total number of Construction companies and/or partnerships/other licensed in the ACT who have become insolvent and/or initiated or declared bankruptcy within said date range.

*Table 3: Construction companies and/or partnerships/other licensed in the ACT who have become insolvent and/or initiated or declared bankruptcy.*

| <b>Year</b> | <b>Number of construction licensees insolvent/in administration</b> |
|-------------|---|
| 2022-23     | 7   |
| 2021-22     | 5   |
| 2020-21     | 3   |
| 2019-20     | 0   |

7. Total number of building licenses issued each year.

| <b>Class</b>  | <b>2022-23</b>                    |                              | <b>2021-22</b>                    |                              | <b>2020-21</b>                    |                              | <b>2019-20</b>                    |                              |
|---------------|-----------------------------------|------------------------------|-----------------------------------|------------------------------|-----------------------------------|------------------------------|-----------------------------------|------------------------------|
|               | <b>Total new builder licences</b> | <b>Total active licences</b> | <b>Total new builder licences</b> | <b>Total active licences</b> | <b>Total new builder licences</b> | <b>Total active licences</b> | <b>Total new builder licences</b> | <b>Total active licences</b> |
| Class A       | 173                               | 1,334                        | 147                               | 1,273                        | 189                               | 1,232                        | 164                               |                              |
| Class B       | 33                                | 888                          | 33                                | 916                          | 56                                | 962                          | 68                                |                              |
| Class C       | 174                               | 1,584                        | 143                               | 1,530                        | 155                               | 1,490                        | 86                                |                              |
| Class D       | 18                                | 262                          | 18                                | 255                          | 21                                | 277                          | 26                                |                              |
| Owner-Builder | 189                               | 574                          | 207                               | 608                          | 199                               | 664                          | 260                               |                              |
| <b>Total</b>  | <b>587</b>                        | <b>4,642</b>                 | <b>548</b>                        | <b>4,582</b>                 | <b>620</b>                        | <b>4,625</b>                 | <b>604</b>                        |                              |

Note that the total active licences information for 2019-20 is not readily available at this moment.

8. Total number of building licenses suspended each year.

*Table 4: Building licences suspended each year.*

| <b>Year</b> | <b>Number of Suspensions</b> |
|-------------|------------------------------|
| 2022-23     | 6                            |
| 2021-22     | 8                            |
| 2020-21     | 3                            |
| 2019-20     | 0                            |

*Under the Construction Occupational (Licensing) Act 2004 (COLA), licenses can be suspended for several reasons, these include:*

- Occupational Disciplinary Action through ACAT – Section 56(1) of COLA
- Incurring 15 or more demerit points – Section 97 of COLA
- Public Safety – Section 52A of COLA
- Automatic suspension of an individual’s licence due to bankruptcy or personally insolvency – Section 48 COLA.
- Automatic suspension of a corporation due to either a winding up order, appointment of an external administrator or being found guilty of fraud dishonesty or violence with a sentence of at least 1 year in prison – Section 49 of COLA
- Automatic suspension of a partnership licence due to either one of the partners licences being suspended or cancelled or one of the partners being found guilty of fraud dishonesty or violence with a sentence of at least 1 year in prison – Section 50 of COLA.
- Automatic suspension of a corporation due to no nominee – Section 50A of COLA
- Automatic Suspension of a licence due to not holding required insurance – Section 52 of COLA.

9. Total number of building licenses cancelled each year.

*Table 5: building licenses cancelled each year.*

| <b>Year</b> | <b>Number of licences cancelled/disqualified</b> |
|-------------|--|
| 2022-23     | 1  |
| 2021-22     | 0  |
| 2020-21     | 0  |
| 2019-20     | 0  |

All disciplinary actions including rectification orders, suspensions and cancellations are published on the [public disciplinary register](#), other than the actions that are either under review by ACAT or within the review period.