



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Disclosure Log Publication Coversheet

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

Application Details	
Ref. No.	CMTEDDFOI 2024-342
Date of Application	23 October 2024
Date of Decision	24 January 2025
Processing time (in working days)	61
Fees	N/A
Decision on Access	Refusal
<b>Information Requested (summary)</b>	Metadata provided in a CSV file from logs and metadata from emails to and from ACT government between 1 January to 31 October 2024.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

**From:** [CMTEDD FOI](#)  
**To:** [REDACTED]  
**Cc:** [CMTEDD FOI](#)  
**Subject:** RE: FOI Request - **\*\*OVERDUE\*\*** - CMTEDDFOI 2024-342  
**Date:** Wednesday, 23 October 2024 11:36:20 AM

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OFFICIAL: Sensitive - Personal Privacy

Good morning,

Thank you for your email below.

Our team does not have any record of previously receiving this request.  
We have allocated this request for information reference number **CMTEDDFOI 2024-342**.

You will be sent a formal acknowledgement in due course, under the *Freedom of Information Act 2016 (the ACT)*.

In the meantime, can you please forward, or send to us the email where you sent in the request so we can look into the issue of the Information Access team not receiving your previous correspondence. The email chain below does not show where you sent the email to on 21 September 2024.

You can either forward the complete original email, or reattach by reply email, to:  
[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

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Please include reference number **CMTEDDFOI 2024-342** in the subject line of any emails.

Kind regards

**Information Access Team**

Phone: 02 6207 7754 | [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

220 London Circuit, Canberra City | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**From:** [REDACTED]  
**Sent:** Wednesday, 23 October 2024 12:51 AM  
**To:** CMTEDD FOI <[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)>  
**Subject:** Re: FOI Request - **\*\*OVERDUE\*\***

You don't often get email from [REDACTED]. [Learn why this is important](#)

**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.

To whom it may concern,

When can a response to, and fulfilment of, the below FOI request sent 21 Sep 2024 be expected?

On Sat, 21 Sept 2024, 00:40 - -, [REDACTED] > wrote:

To whom it may concern,

Could I please obtain a copy of:

- i) All emails and their attachments sent or received between WorkSafe ACT and email addresses with a suffix of '[ljhookerstrata.com.au](mailto:ljhookerstrata.com.au)' between 01 Feb 2024 and 20 Sep 2024;
- ii) All emails and their attachments sent or received between WorkSafe ACT and email addresses with a suffix of '[elevatedconstructions.com.au](mailto:elevatedconstructions.com.au)' between 01 Feb 2024 and 20 Sep 2024;
- iii) All emails and their attachments sent or received between Chief Minister, Treasury and Economic Development Directorate (CMTEDD) and email addresses with a suffix of '[ljhookerstrata.com.au](mailto:ljhookerstrata.com.au)' between 01 Feb 2024 and 20 Sep 2024; and
- iv) All test results or reports sent or received by WorkSafe ACT between 01 February 2024 and 20 September 2024 pertaining to soil or mulch testing within ACT suburbs that have a postcode ending in '611'.

Please provide the requested information to [REDACTED] in accordance with legislated timeframes.

Thank you.



## FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

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 23 October 2024, and the Notice of Decision dated 20 December 2024. The Notice of Decision also included an Attached Notice of Intent to Refuse to Deal with part three of your request (*Reasons for decision*).

On 30 October 2024 you revised part three of your requested scope to the following:

*“iii) A Comma-Separated Values (.CSV) file derived from Information and Communications Technology (ICT) logs, which contains metadata for all email events between 01 Jan 2024 and 31 Oct 2024 pertaining to emails communicated between email addresses with a suffix of '@act.gov.au' and email addresses with a suffix of '@ljhookerstrata.com.au'. The file is to include metadata for the timestamp, sender address, recipient addresses, email subject, and attachment names, for each email event matching the criteria stipulated.*

*You will note that the above refined scope is very specific, and does not require actual emails to be recovered, but rather a simple .CSV file containing the requested metadata to be produced in the public interest.*

*As the ACT Government is required to hold such information to ensure compliance with legislation, and that an ICT professional should be able to extract and download the requested metadata to a Comma-Separated Values file within minutes, I trust that this refined scope alleviates your concerns about unreasonable diversion of resources.”*

### Authority

I am an Information Officer appointed by the CMTEDD Director-General 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 within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act.

On 20 December 2024 you were sent a Notice of Decision letter and consultation notice was included at [Appendix A](#) informing you of the intent to refuse to deal with part three of your request. You were invited to revise the scope and the consultation period for this was until 13 January 2025.

On 14 January 2025 you emailed stating:

To fulfill my FOI request, I specifically sought "*correspondence on-forwarded to LJ Hooker Strata ACT from WorkSafe ACT containing information from Keane Environmental between 1-15 March 2024 which contained images of asbestos displayed on computer monitors and wording to the effect that friable asbestos was detected at a site in Denman Prospect*" which was within scope of my FOI request but has been excluded from the release pack provided.

On 15 January 2025, I responded to inform you that we had made enquiries with WorkSafe ACT in relation to your email dated 2 January 2025 and we are advised by them that they cannot find an email that matches your description. In addition to reviewing the material released to you on 20 December 2024, no records were found that matched the information that you have described.

In that email, I advised you that the decision notice you were provided on 20 December 2024, was also a partial notice of intention to refuse for a portion of the request at Appendix A, (page 8). I attached the decision that includes Appendix A. At that time you were given until 13 January 2025 to respond to that letter and provide a new scope in consultation with my team that may alleviate the grounds for refusal. Noting that it is a difficult time of year, I extended this deadline until close of business, Monday 20 January 2025 to allow you more time to consider if you would like to rescope part 3 of your request. I note that we have not received any further correspondence from you.

### **Decision on access**

I have decided to refuse to deal with any outstanding parts of your request, being part three of your request, under section 35(1)(e) of the Act.

For the reasons outlined in the attached *Reasons for decision*, I have decided to refuse to deal with the remainder of your access application, being part 3 of your request, under section 43 of the FOI Act because under section 43(1)(b) of the Act, dealing with part 3 of your application would be an unreasonable and substantial diversion of resources.

### **Statement of Reasons**

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request
- third party views

- *Human Rights Act 2004.*
- *Work Health and Safety Act 2011*
- ACT Ombudsman Freedom of Information Guidelines
- publicly available information
- information released to you
- CMTEDD resources spent searching for material

Section 44 of the Act states as follows:

***Refusing to deal with application—unreasonable and substantial diversion of resources***

*(1) For section 43(1)(a), dealing with an access application would require an unreasonable and substantial diversion of the respondent's resources only if—*

*(a) the resources required to identify, locate, collate and examine any information held by the respondent, including the resources required in obtaining the views of relevant third parties under section 38, would substantially inhibit the ability of the respondent to exercise its functions; and*

*(b) the extent to which the public interest would be advanced by giving access to the information does not justify the use of the required resources.*

*(2) For subsection (1), the respondent—*

*(a) is not required to have regard to any extension by agreement between the applicant and the respondent of the period within which the application is required to be decided; and*

*(b) must not have regard to—*

*(i) any reasons the applicant gives for applying for access; or*

*(ii) the respondent's belief about the applicant's reasons for applying for access.*

I have formed the view that it is not a reasonable use of ACT Government resources to assist you further with a rescope of your request when you have not identified further what information you are seeking by topic to enable us to conduct searches.

I note your request was made in circumstances where a decision on some of the information within your requested scope has already been released.

The CMTEDD FOI Team has continued to consult with you about the broad nature of part 3 of the scope to enable searches of records by reducing the scope of the request, including informing you of the issues with not being able to search for records without being provided with any subject matter to be able to identify business units to conduct relevant searches for records.

I note CMTEDD already spent a considerable amount of time processing parts one, two and four of your requested information. Searches of CMTEDD records identified **30** documents within the scope of parts one, two and four of your request. Information was released to you as follows: **full access** to two documents; grant **partial access** to 17 documents and there was a decision to not release 11 documents.

CMTEDD identified over 10 third parties for information released to you already, which included CMTEDD already consulting with seven third party groups that included individuals and businesses.

CMTEDD did not receive any suggested rescope of information from you, as requested in Appendix A of the Decision Notice.

After you received your Notice of Decision Letter, including [Appendix A](#), you sent to CMTEDD queries for information related to part one of your request as noted above. CMTEDD assisted you with your queries. Additional searches were undertaken, and no additional records were located.

You have not identified any further subject matter for your requested information for part three of CMTEDDFOI 2024-342, and therefore we are not able to assist you with any rescope, and are not able to search for metadata. Metadata is not required to be released under the Act.

As advised in the Notice of Decision, and [Appendix A](#), previous rescopes of part three of your request did not refine the scope to enable CMTEDD to identify business units to send requests to. Section 98 of the Act refers to only conducting searches for metadata where it is reasonably practicable to do so. I have decided that it is not reasonably practicable to do so. Even if we were able to locate all the sources of metadata, the identities of third parties consulted with may be identifiable, and I have decided that it would be contrary to the public interest to continue to process your application as it is an unreasonable diversion of resources to continue to process your application.

For the above reasons, including the reasons set out in the Notice of Decision Letter, including [Appendix A](#) of 20 December 2024, I refuse to deal with part three of your request.

## **Charges**

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 will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

## **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 provided to you, 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  
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 the CMTEDD FOI Team 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  
24 January 2024