



**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 2021-281

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)	10
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:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request  
**Date:** Wednesday, 27 October 2021 7:39:07 AM

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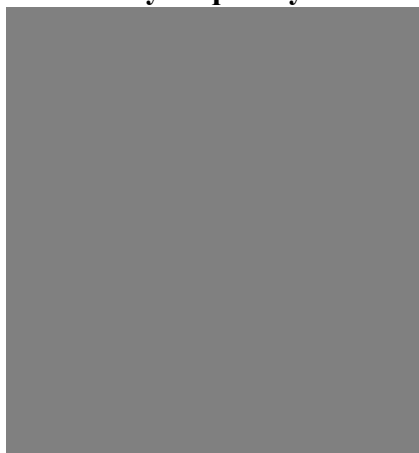
**CAUTION:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

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:

A large grey rectangular box redacting the contact details provided in the form.

### **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):

In relation to previous Access Canberra Director of Investigations, Rohan Connor, the following information:- 1. Date of commencement of his employment as Manager, Investigations and Enforcement, Access Canberra (approx November 2018) 2. Date of commencement of his employment as Director, Investigations and Enforcement, Access Canberra. 3. Date of resignation of his employment as Director, Investigations and Enforcement, Access Canberra (early 2021) In relation the the previous Commissioner for Fair Trading, David Snowden:- 4. Date of resignation of his employment as the Commissioner for Fair Trading.

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

Am not interested in any other information, other than their name and dates of appointments/resignations as above

Thank you.  
Freedom of Information Coordinator



**ACT**  
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Economic Development

Our ref: CMTEDDFOI 2021-281



## **FREEDOM OF INFORMATION DECISION**

I am writing to you in response to your access application under the *Freedom of Information Act 2016 (FOI Act)*, dated 29 September 2021.

Specifically, the request stated:

*"In relation to previous Access Canberra Director of Investigations, Rohan Connor, the following information:- 1. Date of commencement of his employment as Manager, Investigations and Enforcement, Access Canberra (approx November 2018) 2. Date of commencement of his employment as Director, Investigations and Enforcement, Access Canberra. 3. Date of resignation of his employment as Director, Investigations and Enforcement, Access Canberra (early 2021) In relation the the previous Commissioner for Fair Trading, David Snowden:- 4. Date of resignation of his employment as the Commissioner for Fair Trading.*

*Am not interested in any other information, other than their name and dates of appointments/resignations as above."*

### **Authority**

I am an Information Officer appointed by the Director-General of the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act.

### **Timeframes**

In accordance with section 40 of the FOI Act, CMTEDD was required to provide a decision on your access application by 24 November 2021 however, following third-party consultation the due date is now 15 December 2021.

### **Decision on access**

I have decided to refuse access to the information requested as I consider it to be contrary to the public interest information under Schedule 1 section 1.3(7) of the Act.

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

### Material considered

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

- the Act, particularly Schedule 1, section 1.3(7),
- the content of the information that falls within the scope of your request,
- the views of the relevant third party,
- the *Information Privacy Act 2014*, and
- the *Human Rights Act 2004*.

### Exemption claimed

My reasons for deciding not to grant access to the identified information is as follows:

#### Schedule 1, section 1.3 - Information disclosure of which is prohibited under law

The information you have requested is information that is considered to be contrary to the public interest under Schedule 1 subsection 1.3(7) that states:

(7) *In this section:*

**secrecy provision**—a provision of a law is a secrecy provision if it;

- (a) *applies to information obtained in the exercise of a function under the law; and*
- (b) *prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications*

The *Information Privacy Act 2014*, Territory Privacy Principle (TPP) 6 states:

*If a public sector agency holds personal information about an individual that was collected for a particular purpose (the **primary purpose**), the agency must not use or disclose the information for another purpose (the **secondary purpose**) unless—*

- (a) *the individual has consented to the use or disclosure of the information; or*
- (b) *TPP 6.2 or TPP 6.3 applies in relation to the use or disclosure of the information.*

Section 20 of the *Information Privacy Act* stipulates that ‘a public sector agency must not do an act, or engage in a practice, that breaches a TPP’.

One of the individuals noted in your request did not consent to their personal information being disclosed and the other could not be contacted. Releasing their personal information would breach the *Information Privacy Act*. Under Schedule 1, section 1.3 (7) this information is exempt from release.

While I am satisfied this information is contrary to the public interest under Schedule 1 of the Act, I also note, that subjecting this information to the public interest test (section 17 of the Act), would result in non-disclosure. While the Act has a pro-disclosure bias, the release of information that would prejudice an individuals’ rights to privacy under the *Human Rights Act 2004*, section 12, which would override the expectation of disclosure.

I conclude that release of the material in question is contrary to the public interest. The Directorate is bound by strict privacy law obligations with respect to the personal information it holds regarding ACT Public Servants. I see no general public interest to be served by the release of personal information you have requested, and I am satisfied that disclosure of such information would be contrary to the public interest pursuant to Schedule 1 section 1.3(7) of the Act.

Accordingly, I have decided to refuse access to the information in full.

### **Additional information**

Public information on permanent appointments and promotions is available from [Gazettes - Careers and Employment \(act.gov.au\)](https://www.act.gov.au/gazettes-careers-and-employment)

### **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request as no information is 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 released to you 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](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

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](mailto:CMTEDDFOI@act.gov.au)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Stuart'.

Katharine Stuart  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

10 November 2021