



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 2023-254

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	Waived
6. Processing time (in working days)	29
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
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Monday, 24 July 2023 11:56:46 AM

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](#)

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:



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):

A copy of the complaint made regarding an unapproved structure on our property

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

Thank you.

Freedom of Information Coordinator



ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2023-254



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 24 July 2023. Specifically, you sought:

"A copy of the complaint made regarding an unapproved structure on our property



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 on your access application by 4 September 2023.

Decision on access

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

I have included as **Attachment A** to this decision the schedule for the relevant document. This provides a description of the document that fell within the scope of your request and the access decision for the document. I have decided to grant access in full to the document.

My access decisions are detailed further in the following statement of reasons and the documents released to you are 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 *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding to grant access to the identified documents are as follows:

Public Interest

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 the 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:

(viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

I have put substantial weight on the above factor favouring disclosure. The release of this information could reasonably be expected to provide background and contextual information about a property complaint.

I did not identify any factor favouring non-release 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 date of my decision, 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

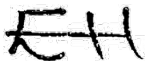
ACT Civil and Administrative Tribunal (ACAT) Review

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
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



Emma Hotham
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
1 September 2023



ACT
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Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
A copy of the complaint made regarding an unapproved structure on our property [REDACTED]	CMTEDDFOI2023-254

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1	Complaint made	27 June 2023	Full release		Yes
Total No of Docs						
1						

Title: Customer Entry (Auto Note)

Content:

This is an auto note of the original customer submission.

Subject:

construct a pergola without DA

Category:

Land, Planning & Building > Building approval

AC Description (forms):

They are constructing a pergola but we cannot find their DA on your website. The finished part of their work looks very high, so we are doubting whether it should be exempted. Can you please investigate?

Plain Description:

Location Data:

Address: [REDACTED]

Latitude: [REDACTED]

Longitude: [REDACTED]