



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 2018-0043

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	N/A
6. Processing time (in working days)	19
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: [EPSDFOI](#)
To: [CMTEDD FOI](#)
Cc: [EPSDFOI](#)
Subject: FW: FOI request - prohibition notice [SEC=UNCLASSIFIED]
Date: Wednesday, 21 February 2018 11:08:09 AM

Hi CMTEDD

This FOI relates to access Canberra matters, do you accept a transfer?

Thank you

Heather Johnston
Information and Systems Support (Freedom of Information)
Phone 02 6207 1941
Information Management | Environment, Planning and Sustainable Development | **ACT Government**
Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

From: [REDACTED]
Sent: Tuesday, 20 February 2018 8:34 PM
To: EPSDFOI <EPSDFOI@act.gov.au>
Cc: [REDACTED]
Subject: FOI request

This is an FOI Request

It concerns a prohibition order issued by Access Canberra in relation to a planning and development matter.

The matter was the development application on behalf of [REDACTED] to run a home business at [REDACTED]. The relevant DA number is 201630340

The application was strongly opposed by [REDACTED]

On 12 January 2017, a decision was made by George Cilliers of the Environment and Planning Directorate to refuse the DA.

The business had been in operation for several months at that stage and it continued as usual after the DA was refused.

We were subsequently advised by Mark Kalleske of Access Canberra that a prohibition notice was issued in relation to the business at No 4. He advised that it was served on 23 May 2017 with a requirement to comply by 2 June.

We request a copy of that prohibition notice.

Our reasons are these. As neighbours we have been closely involved in this matter, making submissions at every opportunity. We continue to be involved and plan to make further

representations. However, we need to know the exact terms of the prohibition notice to be able to proceed. We believe we have a right to know exactly what action was taken by Access Canberra to enforce the decision of 12 January 2017.

Sincerely

[REDACTED]

[REDACTED]



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2018-0043

[REDACTED]
via email: [REDACTED]

Dear [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 20 February 2018, in which you sought access to a copy of the Prohibition notice issued to the business at [REDACTED] on 23 May 2017.

Authority

I am an Information Officer appointed by the Director-General of CMTEDD 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 by 21 March 2018.

Decision on access

Searches were completed for relevant documents and 1 documents was identified that falls within the scope of your request.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to the relevant document. The document released to you are provided as Attachment B to this letter.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number folio's 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, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 23 March 2018. 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>.

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.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman

GPO Box 442

CANBERRA ACT 2601

Via email: ombudsman@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

Yours sincerely,




Daniel Riley

Information Officer

Information Access Team

Chief Minister, Treasury and Economic Development Directorate

 March 2018



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FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
[REDACTED]	A copy of the Prohibition notice issue to the business at [REDACTED] on 23 May 2017.	2018-0043

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	Prohibition notice	23-May-2017	Full release	N/A	Yes
Total No of Docs						
1						



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PROHIBITION NOTICE

This is a prohibition notice issued in accordance with Section 377 of the *Planning and Development Act 2007*.
This prohibition notice takes effect when it is given to the person/entity identified in Part 3 of this Notice.

Part 1. PLACE IN RELATION TO WHICH THIS NOTICE APPLIES

District/Division	Section	Block	Unit
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Part 2. DATE OF ISSUE

23 / May / 2017

Part 3. THIS NOTICE IS DIRECTED TO

NCRF Pty Ltd
 Attn: [REDACTED]
 PO BOX 1290
 BELCONNEN ACT 2617

Part 4. GROUNDS ON WHICH THIS NOTICE IS GIVEN

- To prevent the entity identified in Part 3 from starting, or continuing, to undertake prohibited development in, on or under the place identified in Part 1; or
- To prevent the entity identified in Part 3 from continuing to undertake development without approval in, on or under the place identified in Part 1; or
- To prevent the entity identified in Part 3 from continuing to undertake development other than in accordance with the conditions of a development approval relating to the place identified in Part 1.

Part 5. ACTIVITY TO WHICH THIS NOTICE APPLIES

Specify Activity

As per refused Development Application (DA) 201630340 you are prohibited to operate the home business in its current format as prescribed in DA 201630340.

The current home business format must be altered to comply with section 1.108 of the *Planning and Development Regulations 2008* by 2 June 2017.

Alternatively, obtain a development approval for use of the home business at Block 21 Section 43 Lyneham.


- The activity must not be carried on by the entity identified in Part 3; or
- The activity must not be carried on by the entity identified in Part 3 except in accordance with this notice.

Part 6. ENDING OF PROHIBITION NOTICE

- This prohibition notice ends when revoked by Access Canberra.

Note: Please see to the important information on the back of this notice.

Part 7. EXECUTION



Signed Mark Kalleske
 Delegate of the Planning and Land Authority
 Access Canberra,
 Construction, Environment and Workplace
 Protection

Part 8. CONTACT OFFICER

Name Mathew Bond	6207 6853 Contact Number
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Important Information

Application for Revocation

An entity to whom a prohibition notice is directed may, in writing, apply to the ACT Planning and land Authority (Authority) for the revocation of the prohibition notice. The application **must** state the grounds on which the revocation of the prohibition notice is sought.

The Authority may revoke the prohibition notice if satisfied, on reasonable grounds, that the prohibition notice is no longer necessary or appropriate.

Written applications can be sent to:

Access Canberra
 Construction, Environment and Workplace Protection
 Enforcement unit
 GPO Box 158
 CANBERRA ACT 2601

or emailed to:

actplalru@act.gov.au

REVIEW OF THE DECISION

The following notes are provided in accordance with regulation 7 of the *ACT Civil and Administrative Tribunal Regulation 2009*.

REASONS

If a decision has been made and you, as the entity to whom the decision relates, have not already been given reasons for the decision, you are entitled to apply for a statement of reasons to explain why the decision was made. If you wish to obtain a statement of reasons you must make your request within 28 days of the date of this decision. Applications should be made to the Construction Occupations Registrar, Construction, Environment and Workplace Protection, Access Canberra, Enforcement unit, GPO Box 158, CANBERRA ACT 2601.

CONTACT DETAILS

The review authority is the ACT Civil & Administrative Tribunal (ACAT).

Location:

ACT Civil & Administrative Tribunal
 Level 4,1 Moore street
 CANBERRA CITY ACT 2601

Contact details:

Website: www.courts.act.gov.au
Email: tribunal@act.gov.au
Telephone: (02) 6207 1740
Facsimile: (02) 6205 4855
Post: GPO Box 370, CANBERRA, ACT, 2601
Document exchange: DX 5691

POWERS OF THE ACAT

The ACAT is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities. The ACAT can agree with, change or reject the original decision, substitute its own decision or send the matter back to the decision maker for reconsideration in accordance with ACAT recommendations.

APPLICATIONS TO THE ACAT

To apply for a review, obtain an application form from the ACAT.

TIME LIMITS FOR APPLICATIONS

The time limit to make a request for a review is 28 days from receiving this Notice of decision. The time limit can be extended in some circumstances. Check with the ACAT for more details.

FEES

Applications to the ACAT, including an application to be joined as a party to a proceeding, require payment of a fee of not less than \$247 (the Tribunal Registry will advise of the current fee), unless you are receiving legal or financial assistance from the ACT Attorney-General. You can apply to have the fee waived on the grounds of hardship, subject to approval (refer to section 22T of the *ACT Civil and Administrative Tribunal Act 2008*). Decisions to grant assistance are made on the grounds of hardship and that it is reasonable, in all the circumstances, for the assistance to be granted. Write to: The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA ACT 2601. Ask the ACAT for more details.

FORMS OF LEGAL, FINANCIAL AND OTHER ADVICE AND ASSISTANCE

The following organisations can provide advice and assistance if you are eligible:

- ACT Attorney-General, write to The Chief Executive, Justice and Community Safety Directorate, GPO Box 158, CANBERRA, ACT, 2601;
- the ACT Legal Aid Office, telephone 1300 654 314;
- Legal Advice Bureau, telephone (02) 6247 5700;
- ACT Council of the Ageing, telephone (02) 6282 3777;
- Welfare Rights and Legal Centre, telephone (02) 6218 7977; and
- Environmental Defender's Office (ACT), telephone (02) 6243 3460.

AWARDING OF COSTS

You will have to pay any costs involved in preparing or presenting your case. The ACAT also has the power to award costs against a party if the party contravenes a direction of the ACAT and the ACAT considers it in the interests of justice to make such an order. This power is in addition to the power of the ACAT to strike out a party and to dismiss an application for failure to comply with the ACAT's directions.

ACCESS TO DOCUMENTS ABOUT THE DECISION

You may apply for access to any documents you consider relevant to this decision under the *ACT Freedom of Information Act 1989*. Information about Freedom of information requests is available on the ACT Planning and Land Authority's website (www.actpla.act.gov.au) or by contacting us by phone on (02) 6207 1923.

PROCEDURES OF THE ACAT

The procedures of the ACAT are outlined on the ACAT's website. Contact the ACAT for alternative ways to access information about the ACAT's procedures.

TRANSLATION AND INTERPRETER SERVICES

The ACT Government's translation and interpreter service runs 24 hours a day, every day of the week. Telephone 131 450.

ENGLISH	If you need interpreting help, telephone:
ARABIC	إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, çempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefoniрајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

131 450

Canberra and District - 24 hours a day, seven days a week