



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 2022-143

| 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) | 13 |
| 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: Friday, 29 April 2022 1:25:11 PM

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:

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 the Pink Frosting Investigation. 1. Pursuant to email exchange of [REDACTED] dated 22 July 2019, we require a copy of the investigation matrix document referred to in that email. 2. All emails to and from [REDACTED] of Access Canberra in relation to the Pink Frosting investigation dated between 1 May 2019 and 30 March 2020. 3. A copy of any phone record (date, time of call and length of call) between any Access Canberra staff member and the telephone number 0403 209 389 between 13 June 2019 and 10 September 2020 (there is expected to be more than one).

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

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2022-143



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 29 April 2022 in which you sought:

Pink Frosting Investigation.

- Pursuant to email exchange of [REDACTED] dated 22 July 2019, we require a copy of the investigation matrix document referred to in that email.
- All emails to and from [REDACTED] of Access Canberra in relation to the Pink Frosting investigation dated between 1 May 2019 and 30 March 2020.
- A copy of any phone record (date, time of call and length of call) between any Access Canberra staff member and the telephone number [REDACTED] between 13 June 2019 and 10 September 2020.

On 26 May 2022 I wrote to you proposing to refuse to deal with your application as your request would require an unreasonable and substantial diversion of resources pursuant to section 44(1) of the Act.

On 26 May 2022 you responded and refined the scope of your request to:

- Copy of the Investigation Matrix referred to in my earlier application.
- Copy of all phone records, including date, time and length of call between any Access Canberra staff member and telephone number [REDACTED] between 8 August 2020 and 26 August 2020.

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 was required to provide a decision on your access application by 27 May 2022 however, following however following the intention to refuse notice and subsequent rescope the due date is now 27 June 2022.

Decision on access

In regard to your request for telephone records, Access Canberra does not record telephone conversations nor keep records of calls made to specific numbers.

In relation to the investigation matrix, I have decided to refuse access to this information in full as I consider it to be contrary to the public interest information under schedule 1.

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 1.14(1)(f) and section 1.14(3)
- the content of the documents that fall within the scope of your request

Exemption claimed

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

Contrary to the public interest information under schedule 1 of the Act

The investigation matrix lays out the procedures, model and technique that guide an investigation undertaken by Access Canberra. To disclose this would have the potential to subvert behaviours in multiple industries to work around how evidence is captured, thus increasing the risk that future behaviours cannot be successfully investigated or prosecuted. Schedule 1 section 1.14(1)(f) states:

(1) Information the disclosure of which would, or could reasonably be expected to—

(f) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.

In regard to the specific investigation data for Pink Frosting Schedule 1 section 1.14(3) states:

(3) Information obtained, used or prepared for an investigation by an entity prescribed by regulation in the exercise of a function prescribed by regulation.

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 and my decision in response to your access application will be published in the CMTEDD disclosure log three to ten 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

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 email CMTEDDFOI@act.gov.au.

Yours sincerely,



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

16 June 2022