



**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.		
Date of Application		
Date of Decision		
Processing time (in working days)		
Fees		
Decision on Access		
<b>Information Requested (summary)</b>		
Publication Details		
Original application	Published	N/A
Decision notice	Published	N/A
Documents and schedule	Published	N/A
Decision made by Ombudsman		
Additional information identified by Ombudsman		
Decision made by ACAT		
Additional information identified by ACAT		

-----Original Message-----

To: CMTEDD FOI <CMTEDDFOI@act.gov.au>

Subject: Freedom of Information request - Notice Demerit Points AFTER Notice Ending Rectification Order CMTEDDFOI 2023-422

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<<http://www.act.gov.au/emailsecurity>>

Dear ACT Chief Minister, Treasury And Economic Development Directorate,

Under the Freedom of Information Act 1982 (FOI Act) and Public Interest Disclosure Act 2012 I request the total number of instances a Notice to Show Cause Demerit Points was issued AFTER an issuance of a Notice of Ending of Rectification Order to the same Builder/Nominee/Building Company between 1 November 2021 to 1 December 2023.

Yours faithfully,

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Please use this email address for all replies to this request:

Is CMTEDDfoi@act.gov.au the wrong address for Freedom of Information requests to ACT Chief Minister, Treasury And Economic Development Directorate? If so, please contact us using this form:

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDD FOI 2023-422



## **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 **8 December 2023**. Specifically, you have sought access to the following information:

*“The total number of instances a Notice to Show Cause Demerit Points was issued AFTER an issuance of a Notice of Ending of Rectification Order to the same Builder/Nominee/Building Company between 1 November 2021 to 1 December 2023.”*

### **Authority**

As an appointed Information Officer under section 18 of the Act by the Director-General of CMTEDD, 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 within 30 working days. Therefore a decision is due on **30 January 2024**.

### **Decision on access**

Searches were completed for relevant information and the business area has generated a written response. I have decided to grant full access to the information within scope. The following information was located in response to your request for information:

- A Notice to Show Cause Demerit Points was issued on three (3) instances after the end of the Rectification Order between 1 Nov 2021 and 1 Dec 2023.

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

### **Statement of Reasons**

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act, and
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2.

- I did not identify any Schedule 1 provisions as relevant to this request.

### The public interest information under schedule 2 of the Act

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest 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.

### Factors favouring disclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *contribute to positive and informed debate on important issues or matters of public interest.*

I have placed substantial weight on the above factor favouring disclosure. It is reasonable to expect that information about this topic may be of interest to others within the community and contribute to informed debate about issues of interest.

I did not identify any factor favouring nondisclosure 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 day that my decision is published on the 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)

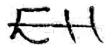
## **ACT Civil and Administrative Tribunal (ACAT) Review**

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  
15 Constitution Avenue  
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,



Emma Hotham  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate  
25 January 2024