



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 2021-219

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)	45
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: [REDACTED]
To: [CMTEDD FOI](#)
Cc: [REDACTED]
Subject: RE: FOI REQUEST – CMTEDD BRIEFS (DIGITAL)
Date: Monday, 23 August 2021 11:32:57 AM

RE: FOI REQUEST – CMTEDD BRIEFS (DIGITAL)

Good Morning,

I write to request under the *Freedom of Information Act 2016* the following briefs:

- SMOs - Data and Digital Ministers' Meeting - National Data Sharing Work Program Briefing (CMTEDD2021/3380)
- Ministerial roundtable on eConveyancing (01/07/21)

[REDACTED]

Should you require any further information or clarification about my request, please contact my office [REDACTED]

Kind regards,

[REDACTED]



ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-219



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 23 August 2021, in which you sought access to:

- SMoS - Data and Digital Ministers' Meeting - National Data Sharing Work Program Briefing (CMTEDD2021/3380)
- Ministerial roundtable on eConveyancing (01/07/21)

Please note that documents in relation to the second point of your request are not held by CMTEDD and this point of your request was transferred to the Justice and Community Safety Directorate (JaCS) on 3 September 2021.

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 is required to provide a decision on your access application by 20 September 2021 however, following an extension and third-party consultations, the due date is now 26 October 2021.

Decision on access

Searches were completed for relevant documents and one document with two attachments were identified that fall 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 the documents that fall within the scope of your request and the access decision for those documents.

I have decided to grant full access to one document. I have decided to refuse access to the two attachments as I consider them to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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, specifically Schedule 2 section 2.1 and 2.2; and,
- 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 documents and component of these document are as follows:

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

Public Interest

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.

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 these 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:*
- (ii) *contribute to positive and informed debate on important issues or matters of public interest*

The release of this information could potentially help to create positive and informed debate on issues of importance to the public and I am satisfied that this is a relevant consideration favouring disclosure in this case, and in the interests of so informing this debate, I afford it significant weight.

I note the FOI Act has an express pro-disclosure bias which reflects the importance of public access to government information for the proper working of a representative democracy. This concept is promoted through the objects of the FOI Act. I have considered this overarching concept in making my decision in relation to access.

Factors favouring nondisclosure in the public interest:

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(xvi) prejudice a deliberative process of government; and,

(x) prejudice intergovernmental relations.

The attachments to the brief are draft documents that are being considered by the Commonwealth, State and Territory governments in relation to the Data Sharing Work Program. To pre-emptively release these documents under consideration would prejudice the deliberative process of not just the ACT government but the Commonwealth and all States and Territories in the Federation. This, in turn, would critically and potentially irrevocably, damage the reputation of the ACT government and deeply prejudice current and future relations with any other State or Territory and indeed the Commonwealth government.

Charges

Processing charges are not applicable for this request because the number of pages 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 on 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

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



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
26 October 2021



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
The following brief: SMoS - Data and Digital Ministers' Meeting - National Data Sharing Work Program Briefing (CMTEDD2021/3380)	CMTEDDFOI 2021-219

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-6	Brief with attachments – SmoS National Data Sharing Work Program under Intergovernmental Agreement	9 Jul 2021	Full release	N/A	Yes
2	7-16	Attachment A		Exempt	Sch 2 s2.2 (a)(xvi) Sch 2 s2.2 (a)(x)	Yes
3	17-24	Attachment B		Exempt	Sch 2 s2.2 (a)(xvi) Sch 2 s2.2 (a)(x)	Yes
Total No of Docs						
3						

Chief Minister, Treasury and Economic Development Directorate

To:	Special Minister of State	Tracking No.: CMTEDD2021/3380
Date:	09/07/2021	
CC:	Head of Service a/g Under Treasurer	
From:	Chief Digital Officer	
Subject:	Formation of the first National Data Sharing Work Program, under the Intergovernmental Agreement on Data Sharing.	
Critical Date:	14/07/2021	
Critical Reason:	Noting of the ACT Portfolio Minister's engagements with the National Data Sharing Work Program ahead of the 23 July 2021 DDM meeting.	

Recommendations

That you:

1. **Note** jurisdictions have until 14 July 2021 to provide Portfolio Minister's endorsement of Work Program longlist items. Only longlist items that receive endorsements from two State and Territory Portfolio Ministers and the relevant Commonwealth Minister will be shortlisted for consideration by Digital and Data Minister's at their 23 July 2021 meeting.

 **Noted / Please Discuss**

2. **Note** that at time of writing, ACT Portfolio Ministers have **not** endorsed any items on the Work Program longlist.

 **Noted / Please Discuss**

3. **Note** you will be provided with an updated brief if Portfolio Ministers endorse any longlist items, or additional important information arises, before the 14 July deadline.

 **Noted / Please Discuss**

4. **Agree** DDTS will advise the Data and Digital Minister's Secretariat on ACT Portfolio Minister's final advice on the Work Program longlist, following your endorsement of this and any additional brief.

 **Agreed/ Please Discuss**

5. **Note** DDTS will provide you with a consolidated brief on the ACT Portfolio Minister's final longlist advice on 19 July, to inform your participation in the 23 July DDM meeting.

 **Noted / Please Discuss**

Chris Steel MLA

 15.7.21

Minister's Office Feedback

Background

1. On 9 April 2021 National Cabinet agreed all jurisdictions would work together to share data by default, where it is safe, secure, and lawful to do so. Data and Digital Ministers (DDMs) were tasked to develop an Intergovernmental Agreement (IGA) to achieve this.
2. All DDMs and jurisdictions supported the IGA, and the finalised Agreement will be presented to National Cabinet on 9 July 2021 for signing.
3. DDMs have continued working with Portfolio Ministers to identify priority data sharing areas for the first National Data Sharing Work Program (Work Program).
4. The Work Program has two sections:
 - a. **Priority Data Sharing Areas** – Subject-specific areas for data sharing that support positive outcomes for Australians.
 - b. **System Reforms** – To support an efficient national data sharing system the Work Program identifies priority system reform elements that enable improved infrastructure, policies and guides that address barriers to data sharing between the Commonwealth, States and Territories.
5. DDMs will meet on 23 July to consider shortlisted nominations for Priority Data Sharing Areas and proposed System Reforms, to finalise the Work Program by 2 August 2021.

6. DDDM Senior Officials nominated priority data sharing areas to form the Work Program longlist on 11 June 2021.
7. Jurisdictions were then asked to seek and provide advice of Portfolio Minister's endorsement of longlist items by 14 July, for DDMs consideration at their 23 July meeting.
 - a. Only items which receive endorsement from the relevant Commonwealth Portfolio Minister and a minimum of two State and Territory Portfolio Ministers will be shortlisted for consideration by DDMs.

Issues

ACT Portfolio Minister's Endorsements

8. At time of writing, **no** ACT Portfolio Minister has endorsed a longlist item.
9. ACT Health and Justice and Community Safety (JACS) advise that their Ministers are currently considering briefs on the Work Program longlist.
 - a. ACT Health and JACS provided preliminary advice that their briefs did **not** request their Minister's endorsement of any longlist items.
 - b. JACS also advised:
 - i. Their brief recommended Ministers provide in principle support to relevant longlist items, as the items lacked sufficient information to enable endorsement to be provided.
10. Similarly, Transport Canberra and City Services (TCCS) advised they are currently preparing a brief for your office. TCCS' preliminary advice is that they will **not** seek your endorsement of any longlist items, but broadly support all relevant longlist items.
11. Community Services Directorate advised that while they had not yet briefed their Minister and therefore could not provide Ministerial endorsement of longlist items, they could advise:
 - a. Directorate level **support** of the following longlist items:
 - i. (2) Family, domestic and sexual violence
 - ii. (4) Disability and NDIS
 - b. Directorate level **queries** on the following longlist items, given these data sharing areas are already the subject of Intergovernmental Agreements:
 - i. (1) Closing the Gap
 - ii. (13) Housing Affordability

12. Similarly, Environment, Planning and Sustainable Development (EPSDD) advised that they planned to brief their Minister(s) next week. They advised they will **not** seek their Minister's advice of any longlist items.
 - a. EPSDD also advised broad, directorate level support for the following relevant longlist items:
 - i. (6) Environment
 - ii. (15) Infrastructure and Building
 - b. EPSDD also offered relevant datasets to the following longlist items if they are successfully nominated to the Work Program, but deferred their endorsement to the relevant directorates and Portfolio Ministers:
 - i. (3) Natural Hazards and Emergency Management
 - ii. (13) Housing affordability
 - iii. (20) Telecommunications infrastructure
13. The following directorates gave broad support for relevant longlist items, but advised their Ministers are **not** endorsing any longlist items at this time:
 - a. Education (discussed further below)
 - b. Access Canberra
 - c. Chief Minister, Treasury and Economic Development.
14. Canberra Health Services have not yet provided advice on the longlist endorsement process.
15. Before the 14 July deadline DDTS propose to:
 - a. provide you with an updated brief only if Portfolio Ministers provide endorsement(s) of any longlist items, or additional important information arises.
 - b. Advise the Data and Digital Minister's Secretariat on ACT Portfolio Minister's final advice on the Work Program longlist, following your endorsement of this and any updated brief.
 - c. Provide you with a consolidated brief on the ACT Portfolio Minister's final longlist advice on 19 July to inform your participation in the 23 July DDM meeting.

ACT's Nomination to the Work Program Longlist

16. The ACT nominated early childhood education data to the Work Program longlist.
17. In discussions, jurisdictions raised concerns about items on the longlist that are the subject of current negotiations for new intergovernmental agreements.
18. In response, a separate section of the longlist named '*Nominations included for visibility only*' was added to the Work Program.
 - a. This section of the Work Program signifies items that cannot progress to a shortlist for DDM consideration, but are noted for reference.
 - b. Once the new intergovernmental agreements are finalised, DDMs may choose to include these nominations in future Work Programs.
19. The ACT's data sharing area nomination to the longlist is currently the subject of a separate Intergovernmental Agreement, and therefore will not progress past the longlist stage at this time.

Feedback on the Work Program longlist

20. Minister Stephen-Smith questioned the longlist's inclusion of items which are already shared through cross-jurisdictional agreements. Specifically, the Minister asked: (a) what further benefits the Work Program proposed in these data sharing areas, and (b) how the Work Program would avoid duplication of ACTPS efforts. The relevant Commonwealth office responded:
 - a. The Work Program will be used to identify gaps in priority data sharing areas, and detailed data sharing agreements will include 'carve-outs' for existing data sharing arrangements.
 - b. Existing sharing arrangements would be noted on the Work Program to ensure there will be no duplication of sharing efforts.
21. All jurisdictions have advised that the longlist's priority sharing area items are too broad, and have been difficult for Portfolio Minister's to confidently endorse.
 - a. This has been echoed by several ACT directorates, most notably Justice and Community Safety.

Financial Implications

22. Nil response.

Consultation

Internal

23. Discussed above.

Cross Directorate

24. Discussed above.

External

25. Discussed above.

Work Health and Safety

26. Nil response.

Benefits/Sensitivities

27. Nil response.

Communications, media and engagement implications

28. Nil response.

Signatory Name: Bettina Konti

Phone: 6207 2242

Action Officer: Tom Whitting

Phone: 0488 148 448

Attachments

Attachment	Title
Attachment A	National Work Program Longlist
Attachment B	Intergovernmental Agreement on Data Sharing

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)

Sch 2.2(a)(xvi), Sch 2.2(a)(x)