



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 2022-034

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)	20
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: 2022-034 Freedom of Information request
Date: Wednesday, 9 February 2022 10:01:35 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.)

Documents that contain: 1) The number of infringement notices issued for parking offences between 24/01/2022 - 31/01/2022 with the offence description: 197 (1) Stop On Road/Strip In Built-Up Area 2) Parking offence images for infringement notices identified in 1) 3) Infringement notices for parking offences on 29/01/2022 in the suburb of Bruce 4) Parking offence images for infringement notices identified in 3) 5) The number of infringement notices for parking offences with the offence description: 197 (1) Stop On Path/Strip In Built-Up Area that were disputed in 2021 6) The number of offences identified in 6) that were successfully disputed

I do not want to access the following documents in relation to my request: I am not interested in any identifiable personal information including number plates - this can be redacted from any relevant documents as out of scope of this request. If this information can be found online, please let me know. Thanks for your help.

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-034



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 9 February 2022, in which you sought access to data relating to parking infringements.

Specifically, you are seeking answers to the below questions:

- 1) *The number of infringement notices issued for parking offences between 24/01/2022 - 31/01/2022 with the offence description: 197 (1) Stop on Road/Strip in Built-Up Area*
- 2) *Parking offence images for infringement notices identified in 1)*
- 3) *Infringement notices for parking offences on 29/01/2022 in the suburb of Bruce*
- 4) *Parking offence images for infringement notices identified in 3)*
- 5) *The number of infringement notices for parking offences with the offence description: 197 (1) Stop on Path/Strip in Built-Up Area that were disputed in 2021*
- 6) *The number of offences identified in 6) that were successfully disputed.*

Authority

I am an Information Officer appointed by the Director-General 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 9 March 2022.

Decision on access

Searches were completed for relevant information and the statistics you have requested are noted below.

I have decided to grant access in full to the statistics relevant to your request. I have decided to refuse access to images you have requested 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.

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 *Information Privacy Act 2014*
- the *Human Rights Act 2004*

Exemption claimed

My reasons for deciding not to grant access to the identified documents and components of these documents 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 nondisclosure.

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:*
- iii) *inform the community of the government’s operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.*

The release of this information may possibly help with informing the community of the government's operations, especially in regard to parking expectations within the suburb of Bruce and road safety.

I am satisfied that this is a relevant consideration favouring disclosure in the interests of community education therefore, I afford this factor some weight.

Factors favouring nondisclosure in the public interest:

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

(ii) *prejudice the protection of individual's right to privacy or any other right under the Human rights Act 2004.*

iv) impede the administration of justice generally, including procedural fairness.

I consider that the protection of an individual's right to privacy, especially in the course of dealings with the ACT Government is a significant factor. This includes information that could be used to identify an individual. To release the images of vehicles that have been issued a parking infringement notice would be to release information that could reasonably be used to identify a person based on the location of the images and any differentiating marks on a vehicle including make, model, colour, accessories, or personal effects in a vehicle.

Section 12 of the *Human Rights Act 2004* states that:

Everyone has the right—

(a) not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and

(b) not to have his or her reputation unlawfully attacked.

Additionally, in the *Information Privacy Act 2014* Territory Privacy Principle 6 dictates that:

6.1 If a public sector agency holds personal information about an individual that was collected for a particular purpose (the *primary purpose*), the agency must not use or disclose the information for another purpose.

I have considered the information and in my opinion the protection of these individuals' personal information (such as vehicle details, specific location, and time at that location) outweighs the benefit which may be derived from releasing them. I consider that these individuals are entitled to expect that the personal information that the ACT Government has collected in the course of routine regulatory actions will be dealt with in a manner that protects their privacy.

Some of the infringement notices may also be in the process of being contested or transferred to another user and to release this information may prejudice procedural fairness and potentially impede the administration of justice for a person.

The following are the statistics that you have requested and are numbered to correspond with the points of your request.

1) The number of infringement notices issued for parking offences between 24/01/2022 - 31/01/2022 with the offence description: Stop on Road/Strip in Built-Up Area? **34**

3) Infringement notices for parking offences on 29/01/2022 in the suburb of Bruce? **3**

5) The number of infringement notices for parking offences with the offence description: Stop on Path/Strip In Built-Up Area that were disputed in 2021? **622**

6) The number of offences identified in 6) that were successfully disputed? **168**

Charges

Processing charges are not applicable for this request because the number of pages being released 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 between 3-10 days of the decision date. 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,

A handwritten signature in black ink, appearing to read 'K Stuart', written in a cursive style.

Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
09 March 2022