



**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 2022-158

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	No
4. Additional information identified	No
5. Fees	Waived
6. Processing time (in working days)	75
7. Decision made by Ombudsman	Under Review
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](#)  
**Subject:** RE: Request for information: Formwork collapse April 2019  
**Date:** Monday, 16 May 2022 4:20:47 PM  
**Attachments:** [REDACTED]

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**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](#)

As detailed in the phone conversation

We are requesting further information about the incident in the form of

- Investigation reports conducted by WorkSafe
- Manufacturer specifications in the form of data sheets on the failed formwork systems
- Information provided to WorkSafe by the manufacturers they investigated

These documents can be in the form of pdfs and reports. Emails are not required

Let me know if you require anything further.



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**From:** [REDACTED]  
**Sent:** Friday, 13 May 2022 3:07 PM  
**To:** CMTEDDFOI@act.gov.au  
**Subject:** FW: Request for information: Formwork collapse April 2019

Hi,

I was after further information regarding the formwork collapse that occurred in 2019 in the ACT. Refer to link article below

<https://www.worksafe.act.gov.au/health-and-safety-portal/safety-alerts/formwork-collapse>

I would like to request information such the manufacturer of the formwork system and what elements of the formwork system failed.





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**From:** Matheson, Baylee <[Baylee.Matheson@worksafe.act.gov.au](mailto:Baylee.Matheson@worksafe.act.gov.au)> **On Behalf Of** WorkSafe


**Sent:** Friday, 13 May 2022 2:56 PM

**To:** 

**Subject:** RE: Request for information: Formwork collapse April 2019

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments or reply unless you recognize the sender and know the content is safe.

OFFICIAL

Good afternoon ,

Thank you for your below request.

If you could please redirect your enquiry to the following email address;

[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

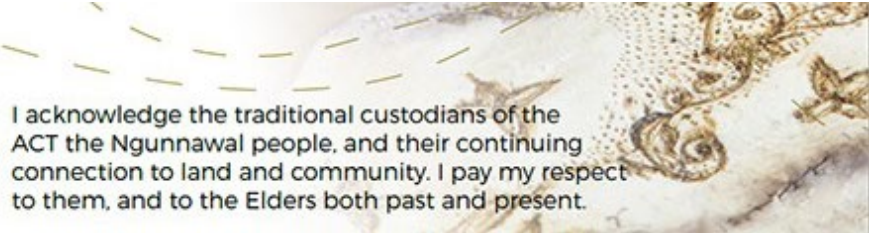
Kind Regards

**Baylee Matheson | HR and Corporate Services**

Phone:  | Email: [baylee.matheson@worksafe.act.gov.au](mailto:baylee.matheson@worksafe.act.gov.au)

Office of the Work Health and Safety Commissioner

GPO Box 158 Canberra ACT 2601 | [www.worksafe.act.gov.au](http://www.worksafe.act.gov.au)

A decorative background image showing a close-up of a textured surface, possibly a piece of fabric or paper, with intricate patterns and colors.

I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.

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**From:** 

**Sent:** Friday, 13 May 2022 10:15 AM

**To:** WorkSafe <[WorkSafe@worksafe.act.gov.au](mailto:WorkSafe@worksafe.act.gov.au)>

**Subject:** Request for information: Formwork collapse April 2019

**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](#)

Hi,

I was after further information regarding the formwork collapse that occurred in 2019 in the ACT. Refer to link article below

<https://www.worksafe.act.gov.au/health-and-safety-portal/safety-alerts/formwork-collapse>

I would like to request information such the manufacturer of the formwork system and what elements of the formwork system failed.



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This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.  
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**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2022-158



## 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 13 May 2022.

Specifically, you are seeking: *“We are requesting further information about the incident in the form of*

- *Investigation reports conducted by WorkSafe;*
- *Manufacturer specifications in the form of data sheets on the failed formwork systems;*
- *Information provided to WorkSafe by the manufacturers they investigated.”*

### 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 14 June 2022 however, following an extension of time and third-party consultations, the due date is now 30 August 2022.

### Decision on access

Searches were completed for relevant documents and 30 documents 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 access in full to six documents and partial access to 24 documents.

My access decisions are detailed further in the following statement of reasons in accordance with section 54(2) of the Act, and the documents released to you are provided as **Attachment B** to this letter.

### **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, and
- 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 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 [public interest] 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 the 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.*

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

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the documents may contribute to debate in this matter,

but I question the extent to whether it would be positive and informed debate and to what extent this is a matter of public interest.

I do however accept that there is a factor for disclosure in releasing information that demonstrates how a government agency undertakes its regulatory function.

Noting that the 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, I must consider the above factors for disclosure of the information, but I afford them only some weight in my consideration.

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 an individual's right to privacy or any other right under the Human Rights Act 2004.*

(xi) *prejudice trade secrets, business affairs or research of an agency or person.*

Having reviewed the documents, I consider that the protection of an individual's right to privacy, especially in the course of dealing with the ACT Government is a significant factor. As a result, I have decided that release of this personal information (identifying details and names of individuals not employed by the ACT Public Service) could prejudice their right to privacy under the *Human Rights Act 2004*. Parties involved have provided their personal information for the purposes of working with the ACT Government in a regulatory manner and this, in my opinion, outweighs the benefit which may be derived from releasing the personal information of individuals involved.

I have also considered the impact of disclosing information which relates to business affairs. In the case of *Re Mangan and The Treasury* [2005] AATA 898 the term 'business affairs' was interpreted as meaning 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person.

Considering the type of information to be withheld from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information and business information of the individuals involved. I therefore weight the factor for nondisclosure more highly than the factor in favour of release in this instance.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

## **Access to documents**

Pursuant to section 38(6) of the Act, I am required to defer access to all the identified documents as an affected third party has objected to disclosure. This third party may apply for review of my release decision within 20 working days after my decision, or a longer period allowed by the Ombudsman. I will write to you to advise when access is no longer deferred.

## **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are applicable for this request because the total number of pages to be released to you exceeds the charging threshold of 50 pages. However, the charges have been waived in accordance with section 107(2)(b) of the Act.

## **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 after 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 of my decision, 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  
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](mailto: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  
Chief Minister, Treasury and Economic Development Directorate

30 August 2022