



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.	CMTEDDFOI 2024-296
Date of Application	16 September 2024
Date of Decision	22 October 2024
Processing time (in working days)	25
Fees	N/A
Decision on Access	No Documents Found
Information Requested (summary)	Information about a closed investigation related to building defects in UP3637 that disclose the date on which the case or investigation was closed and the reason or reasons for the closure of the case or investigation.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input type="checkbox"/> Published <input checked="" type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: [McInnes, Ashleigh](#) on behalf of [Access Canberra](#) [REDACTED]
To: [CMTEDD FOI](#)
Cc: [REDACTED]
Subject: CMTEDDFOI 2024-296 FW: Correspondence from Ms Tara Cheyne MLA
Date: Monday, 16 September 2024 10:32:29 AM
Attachments: [image001.png](#)

OFFICIAL

Hi Team

I understand the below request is a matter for your consideration.
Grateful if you could please provide advice direct to the ACDLO on this matter.

Thanks
Ash

Ashleigh McInnes | Assistant Director
Government Business and Coordination | Strategy, Data & Governance
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government
Phone: (02) 6207 7421 | Email: ashleigh.mcinnnes@act.gov.au | [REDACTED]@act.gov.au
www.act.gov.au



From: Huggett, Jenna <Jenna.Huggett@act.gov.au> **On Behalf Of** [REDACTED]
Sent: Monday, September 16, 2024 10:00 AM
To: Access Canberra Government Business & Coordination [REDACTED]@act.gov.au
Subject: Fwd: Correspondence from Ms Tara Cheyne MLA

OFFICIAL

Hi GBC
Can I please refer you to the below for action as appropriate.

Thank you

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From: CHEYNE <CHEYNE@act.gov.au>
Sent: Monday, September 16, 2024 9:56:30 AM
To: [REDACTED]@act.gov.au

Subject: FW: Correspondence from Ms Tara Cheyne MLA

Hi Jen

For the FOI team to progress as an application. Grateful for advice I can provide in response as to how and to whom any follow up to this request should be directed.

Thanks

Nick Argy

Senior Adviser | Office of Tara Cheyne MLA

From: [REDACTED] >

Sent: Monday, September 16, 2024 8:51 AM

To: CHEYNE <CHEYNE@act.gov.au>

Cc: VASSAROTTI <VASSAROTTI@act.gov.au>; BARR <BARR@act.gov.au>

Subject: Re: Correspondence from Ms Tara Cheyne MLA

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.

Dear Naomi

Thank you for your email and it's attached letter from the Minister of 23 August 2024.

I strongly dispute the advice the Minister says she has received from the Construction Occupations Registrar. Many of the Registrar's assertions that he provided in his advice to the Minister are wrong or misleading. I fully appreciate that a statutory officer who, on the face of it, has likely failed to carry out his statutory duties in relation to building defects at Kingston Place Stage 1 [SF Case 00200730/SF Investigation 20210423-23054] would be unlikely to advise his Minister any differently.

It is very simple information that we hoped the Minister could have provided to us in the course of a meeting. It is highly regrettable that the Minister is displaying a distinct unwillingness to get the bottom of the matter through direct engagement with constituents and stakeholders.

The public interest lies in the public generally, and the owners of UP3637 in particular having confidence that the Construction Occupations Registrar has not committed an act or acts of misfeasance in office during the period in which he could have exercised his jurisdiction under the *Construction Occupations (Licensing) Act 2004* to make a rectification order against Morris Construction Corporation Pty. Ltd.

Therefore, this email is an application directed to the Minister pursuant to section 30 of the Freedom of Information Act 2016 (ACT) (the FOI Act) for access to the following information:

1. All government information and/or documents created between 17 December 2021 and 10 April 2023 by any person in the office of the Construction Occupations Registrar relating to SF Case 00200730F/SF Investigation 20210423-23054 in respect of building defects in UP3637 which disclose the date on which the case or investigation was closed

and the reason or reasons for the closure of the case or investigation.

This request is not intended to seek access to personal information but to the extent that it might, I ask that such information be redacted but not in such a way as to defeat the application.

This request is not intended to seek access to information that is commercial-in-confidence but to the extent that it might, I ask that such information be redacted but not in such a way as to defeat the application.

I do not seek access to any of the following documents or information:

- UP3637 Owners' Corporation documents;
- Canberra Strata documents;
- Publicly available documents including legislation and case law;
- Documents in the possession of ACAT;
- Documents subject to legal professional privilege;
- Building approvals, development applications, defects registers, occupancy certificates and reviews of building plans relating to UP3637;
- Documents requiring consultations with a third party comprising a Minister or Ministers;
- Documents requiring consultations with a third party comprising a builder or builders other than Morris Construction Corporation Pty Ltd;
- Documents requiring consultations with any third party comprised of any participant in the building construction or property industry other than Morris Construction Corporation Pty Ltd; and
- Documents requiring consultations with any third party property owner other than an owner of property in UP3637.

Would you kindly ensure that this application is drawn immediately to the Minister's attention and that I am provided with the advice to which I am entitled pursuant to section 32 of the FOI Act.

The email address to which notices under the FOI Act may be sent to me is

[REDACTED]

Your sincerely

[REDACTED]

On 23 Aug 2024, at 11:37 am, CHEYNE <cheyne@act.gov.au> wrote:

[REDACTED]



FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

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 16 September 2024.

I note that your request was also sent to the office of Minister Cheyne MLA. A copy of your request was sent to CMTEDD, and as that Office does not hold information, your access request application was transferred in full to CMTEDD under section 57(2) of the Act.

Specifically, you have sought access to the following information:

1. *All government information and/or documents created between 17 December 2021 and 10 April 2023 by any person in the office of the Construction Occupations Registrar relating to SF Case 00200730F/SF Investigation 20210423-23054 in respect of building defects in UP3637 which disclose the date on which the case or investigation was closed and the reason or reasons for the closure of the case or investigation.*

This request is not intended to seek access to personal information but to the extent that it might, I ask that such information be redacted but not in such a way as to defeat the application.

This request is not intended to seek access to information that is commercial-in-confidence but to the extent that it might, I ask that such information be redacted but not in such a way as to defeat the application.

I do not seek access to any of the following documents or information:

- *UP3637 Owners' Corporation documents;*
- *Canberra Strata documents;*
- *Publicly available documents including legislation and case law;*
- *Documents in the possession of ACAT;*
- *Documents subject to legal professional privilege;*
- *Building approvals, development applications, defects registers, occupancy certificates and reviews of building plans relating to UP3637;*
- *Documents requiring consultations with a third party comprising a Minister or Ministers;*
- *Documents requiring consultations with a third party comprising a builder or builders other than Morris Construction Corporation Pty Ltd;*
- *Documents requiring consultations with any third party comprised of any participant in the building construction or property industry other than Morris Construction Corporation Pty Ltd; and*

- *Documents requiring consultations with any third party property owner other than an owner of property in UP3637.*

On 25 September 2024, you were sent an acknowledgment email, which included a request for further information from you, including asking as follows:

Can you please confirm your connection to the material requested. For example, are you an interested member of the public (unconnected to any party you have referred to in your public interest statement), requesting information as an agent on behalf of the UP3637 Owners Corporation, are you one of the owners, are you a neighbour, or are you requesting information as agent for Morris Construction Corporation Pty Ltd?

I note no response has been received from you to that email.

Authority

I am an Information Officer appointed by the CMTEDD 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 within 30 days. Therefore, a decision is due by **29 October 2024**.

Decision on access

A search of CMTEDD records has failed to identify any documentation in relation to your request. I am satisfied that appropriate searches were completed and that no documents relevant to your request are held by CMTEDD. Based on searches by business units within CMTEDD for closed case investigations, I am satisfied that there are no documents held by CMTEDD as requested.

Additional information.

In this respect, you may wish to refer to the CMTEDD Disclosure Log, for a decision published for **CMTEDDFOI 2023-296**, which can be accessed here:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>

Charges

Pursuant to *Freedom of Information (Fees) Determination 2018* processing charges are not applicable for this request as no documents are being released to you.

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.

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 provided to you, 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
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 the Information Access Team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



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

22 October 2024