



**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 2019-190

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)	10
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

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**From:** [REDACTED]  
**Sent:** Tuesday, 13 August 2019 4:48 PM  
**To:** CMTEDD FOI  
**Subject:** Re: Request for information on Hilton Canberra World Trade Technology Centre

**Categories:** Kelly

Hi Kelly-Jane,

Thank you for the quick reply. I am unsure what information can be made available but some information that I am looking for is:

- Location/ precinct in which the Centre will be located
- Proposed size/ area
- Number of proposed rooms for the Hilton hotel component
- Any estimated timeline

Thank you!

Best regards,



On Tue, Aug 13, 2019 at 3:20 PM CMTEDD FOI <[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)> wrote:

**UNCLASSIFIED**

Hi [REDACTED]

Thank you for your email. Your request in it's current form is too broad to determine the type of information you are requesting access to. Can you please provide some specifics in relation to the information you are seeking access to for the Hilton Canberra World Trade Technology Centre.

I will await your further communication.

Kind regards,

**Kelly-Jane Yule | Freedom of Information Coordinator | Information Access Team**

Ph: 02 620 77461

**Corporate | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

Level 2, Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

**From:** [REDACTED]

**Sent:** Tuesday, 13 August 2019 2:10 PM

**To:** CMTEDD FOI <[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)>

**Subject:** Request for information on Hilton Canberra World Trade Technology Centre

Hi,

I will like to receive information on the unsolicited proposal on Hilton Canberra World Trade Technology Centre. On the website, it seems that the proposal has been presented but no summary information is available.

Appreciate any information you can provide. Thank you!

Best regards,





**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI2019-190

[REDACTED]  
via email: [REDACTED]

Dear [REDACTED]

### **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 August 2019, in which you are seeking access to information regarding an unsolicited proposal on a Hilton Canberra World Trade Technology Centre.

#### **Authority**

I am an Information Officer appointed by the Director-General of CMTEDD 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 10 September 2019.

#### **Decision on access**

Searches were completed for relevant documents and one document was identified that falls within the scope of your request.

I have decided to fully exempt from release the identified document as the release of it would, on balance, be contrary to the public interest to disclose in accordance with the test set out in section 17 of the Act.

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

#### **Statement of Reasons**

In reaching my access decision, I have taken the following into account:

- the Act; and
- the content of the document that falls within the scope of your request.

#### **Exemption claimed**

My reasons for deciding not to grant access to the identified document is as follows:

### Public Interest Test (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 factors favouring 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 (Schedule 2 section 2.1)

Taking into consideration the information contained in the document found to be within the scope of your request, I have identified that the following public interest factor in favour of disclosure is relevant to determine if release of the information contained within this document is within the 'public interest':

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

*(viii) reveal the reason for a government decision and any background or contextual information that informed the decision;*

The document identified as being within the scope of the request would provide the details of an unsolicited proposal and would reveal the background to the proposal. I am satisfied that its release would provide background and context to a government decision.

However, this factor is to be balanced with the weight of factors favouring non-disclosure.

#### Factors favouring non-disclosure (Schedule 2 section 2.2)

As required in the public interest test set out in section 17 of the Act, I have also identified the following public interest factors in favour of non-disclosure that I believe are relevant to determine if release of the information contained within this document is within the 'public interest':

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

*(i) prejudice the collective responsibility of Cabinet or the individual responsibility of members to the Assembly*

*(xii) prejudice an agency's ability to obtain confidential information.*

The document that has been identified as being within the scope of your request has been used to form a subsequent Cabinet submission directly related to this matter. The information has been used by Cabinet to guide it in its decision making and to assist it in its deliberations on the Hilton Canberra World Trade Technology Centre unsolicited proposal. When considering the document and this factor in favour of non-disclosure, I consider that the release of this document would reveal Cabinet deliberations which

would subsequently undermine Cabinet confidentiality and the workings of the Cabinet. Accordingly, when considering the release of this document, I find that the document, if released, would impact and undermine the collective responsibility of the Cabinet.

The second factor considered is the impact that the release of the document could have on the relations between the ACT Government and in this instance the Hilton Canberra WTTTC Consortium. The identified document contains confidential information provided to the ACT Government by members of the Hilton Canberra WTTTC Consortium currently being referenced in a Cabinet submission.

I am satisfied that if released this may impede the ACT Government's ability to obtain confidential information in the form of unsolicited proposals in the future. I consider that maintaining good working relations between the ACT Government and in this instance the Hilton Canberra WTTTC Consortium is crucial to the ongoing negotiations on this issue and on future matters. I am satisfied that this factor favouring non-disclosure carries very significant weight.

### **Charges**

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because no documents are being released to you at this time.

### **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 in response to your access application will be published in the CMTEDD disclosure log three days after the date of my decision. Your personal contact details will not be published.

You may view the CMTEDD disclosure log at

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

### **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 a review by the Ombudsman of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision 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 by the Ombudsman under section 82(1), you may apply to the ACAT for a 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 by email at [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

Yours sincerely,

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

Sarah McBurney  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

27 August 2019