



ACT
Government

Transport Canberra and
City Services

FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 2019-009

Information to be published	Status
1. Access application	Published
2. Decision notice and schedule	Published
3. Documents	Not published
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	22 days
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

19-009
RECEIVED
DATE 7/2/2019 BY TCCS



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Freedom of Information – Access Application Form

PRIVACY NOTICE

The personal information you supply on this form will only be used for the purpose of processing your request. Your application must include an email or postal address to which the respondent can send notices under the Act. If all or some of this information is not collected, Transport Canberra and City Services may not be able to communicate with you, inhibiting their obligations under the Act. This could mean the request cannot be dealt with. Your personal information will not be disclosed to a third party without your consent unless statutory obligations require otherwise.

The Transport Canberra and City Services Privacy Policy contains information on how you can access or seek to correct any of your personal information that is held by the Transport Canberra and City Services, as well as the process for lodging a complaint about an alleged breach of the *Information Privacy Act 2014*. The Privacy Policy can be found on the Transport Canberra and City Services website at www.tccs.act.gov.au.

Applicant details

I wish to make an access application to Transport Canberra and City Services under the *Freedom of Information Act 2016*.

Name

Address

(where notices relating to this request can be sent – either postal or electronic)


Telephone Contact (Business Hours)

Telephone Contact (Mobile)

Email Contact

What documents are you requesting under the Act?

- To help Transport Canberra and City Services process your request, please include enough detail in your application so that we can fully understand what government information you want.
- You may wish to include a statement about how the release of information is in the public interest.
- If your application is for access to your own personal information you must include evidence of your identity. If you are an agent acting for an applicant, please supply evidence of your authorisation and evidence of the identity of the agent.
- If for reasons in section 30 of the Act is not compliant and your application cannot be processed, Transport Canberra and City Services will take reasonable steps to assist you and give you reasonable time to amend your application if you wish.



All documents including drafts of records, emails, file notes, design drawings, plans, job requests, work approvals, budgets, work quotes, compliance reports or certifications, photographs relating to any maintenance and construction including signage and on road signage of all roadways, all footpaths, all community paths and all cycle ways and paths including all On-Road Cycle Lanes relating to or near the roundabout of Tharwa Drive and Mentone View, Conder ACT between 1 January 2013 and 1 January 2019.

Fee Waiver

If you wish to apply for a fee waiver, the Act sets out a number of provisions to do so:

- The information being requested was previously publicly available but no longer is.
- The information being requested is of special benefit to the public (Ombudsman guidelines see Section 66).
- The applicant is a concession card holder and demonstrates a material connection with the information requested (concession cards include a current health care or pensioner card issued under the Social Security Act 1991; a current pensioner concession card issued in relation to a pension under the Veterans' Entitlements Act 1986 or the Military Rehabilitation and Compensation Act 2004; a current gold card; or a card prescribed by regulation).
- The applicant is a not-for-profit organisation and the application relates to the activities or purposes of the organisation.
- The applicant is a member of the Legislative Assembly.

Transport Canberra and City Services must waive any fees for providing information if the information was not publicly available and the agency makes the information publicly available before or within 3 working days after giving it to the applicant.

Fee waiver application (fill in if applicable. Otherwise leave blank)

I would like to apply for a fee waiver because (state reason/s from the list above).

[provide details and evidence of how this reason applies]

I would like

a copy of these documents sent to the above address

OR

to inspect these document

APPLICANTS SIGNATURE

DATE OF REQUEST

07/02/19



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Dear 

Freedom of Information request: Reference 19-009

I refer to your application made under the *Freedom of Information Act 2016* (the Act) received by the Transport Canberra and City Services (TCCS) directorate on 07 February 2019, in which you sought access to:

- All documents including drafts of records, emails, file notes, design drawings, plans, job requests, work approvals, budgets, work quotes, compliance reports or certificates, photographs relating to any maintenance and construction including signage and on road signage of all roadways, all footpaths, all community paths and all cycle ways and paths including all on-road cycle lanes relating to or near the roundabout of Tharwa Drive and Mentone View, Condor ACT between 1 January 2013 and 1 January 2019.

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.

TCCS was required to provide a decision on your access application by 06 March 2019. As extension has been sought from you until 14 March 2019.

Decision on access

A search of TCCS records was conducted from 01 January 2013 until the 01 January 2019 and five documents (24 pages) 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 each document that falls within the scope of your request and the access decision for each of those documents.

Documents identified as relevant to your request contain information that I consider to be, on balance, contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to copies of documents (Attachment B) with deletions applied to information that I consider would be contrary to the public interest to disclose.

Statement of Reasons

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

- the Act; in particular
- Schedule 2 of the FOI Act; and
- the content of the documents that fall within the scope your request

Factors favouring disclosure (Schedule 2)

- Section 2.1 (a)(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; and
- Section 2.1 (a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

Factors favouring non-disclosure (Schedule 2)

- Section 2.2 (a)(ii) – prejudice the Protection of an Individual’s Right to Privacy.

As an Information Officer, 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.

I consider that it is in the public interest to release most of this information.

Schedule 2 of the FOI Act lists factors favouring disclosure in the public interest. Section 2.1 (viii) favours the release of documents which ‘reveal the reason for a government decision and any background or contextual information that informed the decision’. Information contained in these documents includes the report by TCCS Roads following the Coroner’s recommendations, and demonstrates a review carried out and upgrade design drawings of the roundabout. Pictures of the minor works completed at this site have also been provided.

The factors I considered relevant in relation to favouring non-disclosure is where information might prejudice the protection of an individual’s right to privacy or be sensitive information.

I have decided people’s names and contact details should not be released where it would amount to a release of personal information because the release could identify an individual and would prejudice their right to privacy. I have decided not to release part of the information in folio four and five as it contains personal information relating to an incident that occurred at this location. Considering the type of information, I propose to withhold from release, I am satisfied that the factors in favour of release can still be met while protecting the personal information of individuals involved. I find the protection of this information outweighs disclosure in this instance. As a result, I have decided that release of this information could prejudice their right to privacy under the Human Rights Act 2004.

Charges

No fee is payable as the number of pages being released is within the fee-free threshold.

Online publishing – disclosure log

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published in the TCCS disclosure log from 3 days after the date of this decision. Your personal details and those of your client will not be published.

The documents will not be published on the TCCS disclosure log as it is not in the public interest to publish online documents comprising a release sought in response to a legal matter.

You may view TCCS' disclosure log at www.tccs.act.gov.au/about-us/freedom_of_information.

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 TCCS' 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: ombudsman@ombudsman.act.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 ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
CANBERRA CITY ACT 2601
Telephone: (02) 6207 1740
www.acat.act.gov.au

If you have any questions concerning the directorate's processing of your request, or would like further information, please contact the directorate's FOI Coordinator on 6205 5408 or email tccs.foi@act.gov.au.

Yours sincerely



Cherie Hughes
Information Officer

8 March 2019