



## FREEDOM OF INFORMATION COVERSHEET

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

FOI reference: 24-070 and 24-073

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Not applicable
4. Documents	Not applicable
5. Additional information identified	Not applicable
6. Fees	Not applicable
7. Processing time (in working days)	50 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not applicable
10. Decision made by ACAT	Not applicable
11. Additional information identified by ACAT	Not applicable



# Freedom of Information

## Access Application to Transport Canberra and City Services

### About this form

This form should be used to submit an application for information held by Transport Canberra and City Services (TCCS) under the Freedom of Information Act 2016.

For an application to be valid, it must:

- Contain an email address or postal address in which notices under the FOI Act can be provided to you; and
- Include enough detail about in the type of information you are requesting to enable TCCS to identify the relevant government information.

Mandatory fields are marked with a \*

If your application is for access to your own personal information you must include evidence of your identity.

Where a request relates to the personal information of a person you are acting on behalf of, you are required to attach evidence of your identity and a signed consent form.

You may wish to include a statement about how the release of information is in the public interest. An opportunity to attach the statement or any other information will be provided at the end of this application.

If your application is incomplete, TCCS will take reasonable steps to assist you and give you reasonable time to amend your application.

### Submission

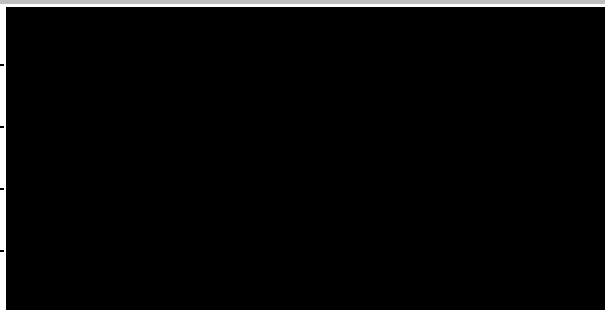
#### Post

FOI and Subpoenas, Legal and Contracts  
Transport Canberra and City Services Directorate  
GPO Box 158  
CANBERRA ACT 2601

#### Email

[tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au)

### Your details:

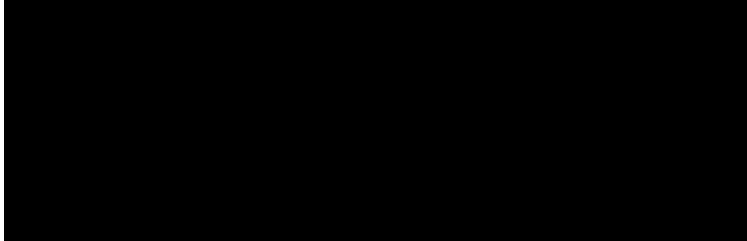
Preferred method of contact:  Phone  Email  Post

**Requested information\***

*Additional information can be attached*

I am requesting access to the following government information under the *Freedom of Information Act 2016*:

**Any/all emails (including deleted emails) sent by [REDACTED] from January 2016 until May 2024**



that contain any of the following key words in either the Subject, Body or documents of the email:

- Kambah 3
- Kambah 301
- Kambah 302
- Kambah 303
- Kambah 310
- K3
- K301
- K302
- K303
- K310
- Kett
- Therton

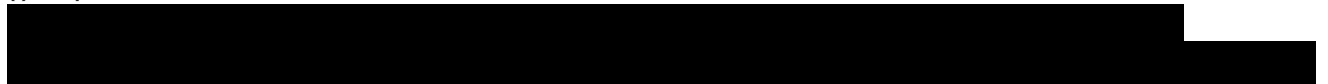
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Preferred method to receive information\*:

- Email     Post

**Statement on the public interest (Optional)**

As a concerned citizen and advocate for transparent governance, I am submitting a Freedom of Information (FOI) request to ensure that decisions related to Kambah 3 and its associated government infrastructure have been made impartially. This request is motivated by a perceived trend of questionable decisions that appear to favour a particular community group.



While this information does not assert any wrongdoing, it raises concerns regarding potential conflicts of interest that may have influenced decisions related to Kambah 3.

The FOI request is intended to ensure that government integrity has been maintained in all decisions related to Kambah 3. The request seeks relevant documents and communications that shed light on the decision-making process, particularly regarding any involvement or influence from individuals affiliated with community groups.

This request is made in the public interest to uphold the principles of transparency and

accountability in government decision-making. The Freedom of Information Act 2016 grants citizens the right to access government information, and I believe that exercising this right is crucial in maintaining public trust and confidence in government actions. I trust that the relevant authorities will handle this request with the seriousness it deserves, and I look forward to receiving the requested information in due course. Thank you for your attention to this matter

### Waiver of fees

- I hold a valid concession card
- I am a member of the ACT Legislative Assembly
- This application is being submitted on behalf of a not-for-profit organisation
- The information that is the subject of the request is of special benefit to the public
- The information being requested was previously available to the public but no longer is

### Privacy Notice

All personal information you provide will be handled in accordance with the [Information Privacy Act 2014](#) and the TCCS Privacy Policy. In accordance with the [Freedom of Information Act 2016](#), your application may be shared with other ACT Government Directorates where it is believed that they may hold information relevant to your request. You will be notified if another ACT Government Directorate is likely to respond to all or part of your application.

### TCCS Disclosure Log

Please be aware that under the [Freedom of Information Act 2016](#) all information released to you will be published online, except where the request relates to your personal information. Your personal information will be removed prior to documents being published online.

### Public Interest

In deciding on an application to access government information, an Information Officer must decide if the disclosure is in the public interest. While the Freedom of Information Act 2016 promotes disclosure, there are certain circumstances the disclosure of government information is contrary to the public interest. These circumstances are:

- Any instance where the type of information is listed in schedule 1; or
- Where the Information officer has carried out a public interest test against factors listed in schedule

## Privacy Notice

2, and the information is found on balance to be contrary to the public interest.

## Accessibility

Should you require assistance to complete this application or have any suggestions to improve the accessibility of this form, please contact the TCCS Freedom of Information team on (02) 62072987.



# Freedom of Information

## Access Application to Transport Canberra and City Services

### About this form

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### Submission

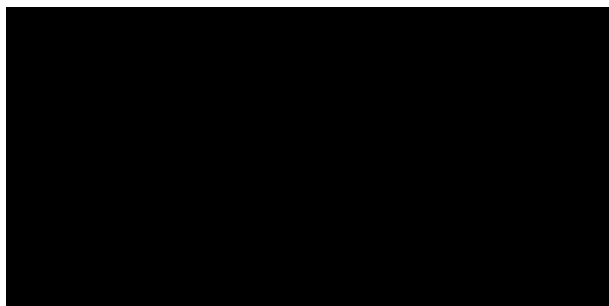
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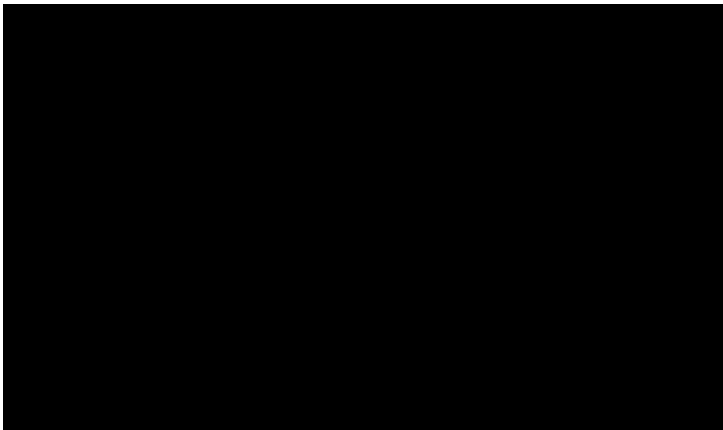
	

Preferred method of contact:  Phone  Email  Post

**Requested information\***

*Additional information can be attached*

I am requesting access to the following government information under the Freedom of Information Act 2016:  
Any/all emails (including deleted emails) sent by [REDACTED] from January 2016 until May 2024



that contain any of the following key words in either the Subject, Body or documents of the email:

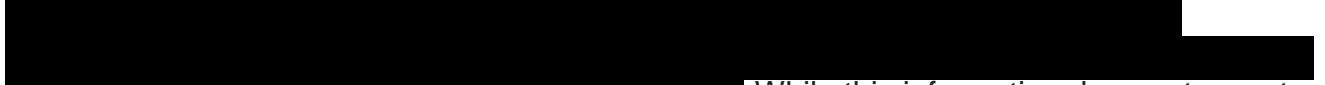
- Storage
- Shed
- Green
- Building
- Facility
- Structure
- Infrastructure
- Access
- Upgrade
- Improvement
- Renovation
- Electricity
- Approval
- Lighting
- Burns
- BFC

Preferred method to receive information\*:

- Email     Post

**Statement on the public interest (Optional)**

As a concerned citizen and advocate for transparent governance, I am submitting a Freedom of Information (FOI) request to ensure that decisions related to Kambah 3 and its associated government infrastructure have been made impartially. This request is motivated by a perceived trend of questionable decisions that appear to favour a particular community group.



While this information does not assert any wrongdoing, it raises concerns regarding potential conflicts of interest that may have influenced decisions related to Kambah 3.

The FOI request is intended to ensure that government integrity has been maintained in all decisions related to Kambah 3. The request seeks relevant documents and communications that shed light on the decision-making process, particularly regarding any involvement or influence from individuals affiliated with community groups.

This request is made in the public interest to uphold the principles of transparency and accountability in government decision-making. The Freedom of Information Act 2016 grants citizens the right to access government information, and I believe that exercising this right is crucial in maintaining public trust and confidence in government actions.

I trust that the relevant authorities will handle this request with the seriousness it deserves, and I look forward to receiving the requested information in due course.

Thank you for your attention to this matter

#### Waiver of fees

- I hold a valid concession card
- I am a member of the ACT Legislative Assembly
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## Public Interest

In deciding on an application to access government information, an Information Officer must decide if the disclosure is in the public interest. While the Freedom of Information Act 2016 promotes disclosure, there are certain circumstances the disclosure of government information is contrary to the public interest. These circumstances are:

- Any instance where the type of information is listed in schedule 1; or
- Where the Information officer has carried out a public interest test against factors listed in schedule 2, and the information is found on balance to be contrary to the public interest.

## Accessibility

Should you require assistance to complete this application or have any suggestions to improve the accessibility of this form, please contact the TCCS Freedom of Information team on (02) 62072987.



Dear [Redacted]

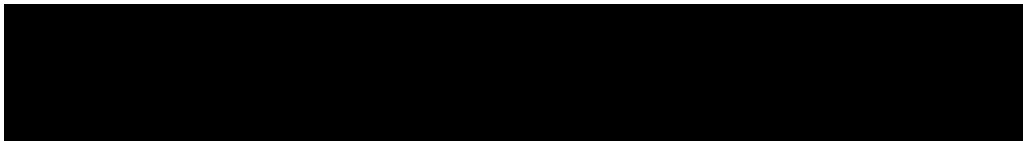
**Freedom of Information Request - Reference 24-070 & 24-073**

I refer to your application for access to government information received by Transport Canberra and City Services (TCCS) on 9 and 10 May 2024 respectively. As the information within your applications overlap, I am providing the notice of my decisions on access together.

It is my understanding that you are seeking access to the following government information under the *Freedom of Information Act 2016* (FOI Act):

24-070:

Any/all emails (including deleted emails) sent by [Redacted] from January 2016 until May 2024; Addressed to any/all of the following email addresses:

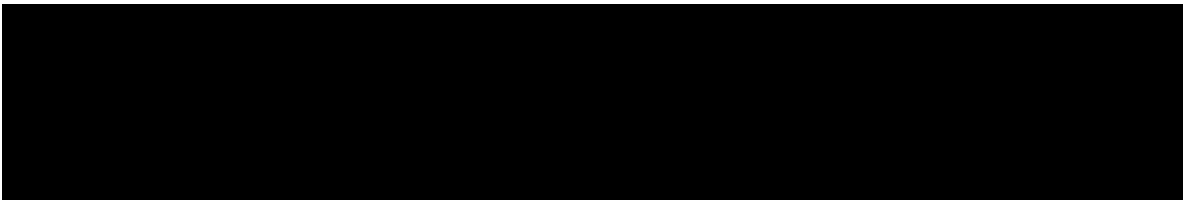


that contain any of the following key words in either the Subject, Body or documents of the email:

- Kambah 3
- Kambah 301
- Kambah 302
- Kambah 303
- Kambah 310
- K3
- K301
- K302
- K303
- K310
- Kett
- Therton

24-073:

Any/all emails (including deleted emails) sent by [Redacted] from January 2016 until May 2024 Addressed to any/all of the following email addresses:



that contain any of the following key words in either the Subject, Body or documents of the email:

- Storage
- Shed
- Green
- Building
- Facility
- Structure
- Infrastructure
- Access
- Upgrade
- Improvement
- Renovation
- Electricity
- Approval
- Lighting
- Burns
- BFC



I thank you for including the following views on public interest in your applications:

24-070 and 24-073:

*As a concerned citizen and advocate for transparent governance, I am submitting a Freedom of Information (FOI) request to ensure that decisions related to Kambah 3 and its associated government infrastructure have been made impartially. This request is motivated by a perceived trend of questionable decisions that appear to favour a particular community group.*

*While this information does not assert any wrongdoing, it raises concerns regarding potential conflicts of interest that may have influenced decisions related to Kambah 3. The FOI request is intended to ensure that government integrity has been maintained in all decisions related to Kambah 3. The request seeks relevant documents and communications that shed light on the decision-making process, particularly regarding any involvement or influence from individuals affiliated with community groups. This request is made in the public interest to uphold the principles of transparency and accountability in government decision-making. The Freedom of Information Act 2016 grants citizens the right to access government information, and I believe that exercising this right is crucial in maintaining public trust and confidence in government actions. I trust that the relevant authorities will handle this request with the seriousness it deserves, and I look forward to receiving the requested information in due course.*

#### **Timeframes**

In accordance with section 41 of the FOI Act a decision is due to you by 23 July 2024. I thank you for agreeing to additional time to decide on your access applications.

#### **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 FOI Act.

#### **Decision on access**

In accordance with the FOI Act, a search of TCCS records has been completed and emails falling within the scope of your application have been identified.

In reviewing the information you are seeking access to, and applying the public interest test under section 17 of the FOI Act, I have found it to be contrary to the public interest to disclose the relevant records in full. Reasons for my decision are detailed further in the statement of reasons.

#### **Statement of reasons**

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

- The FOI Act.
- the content of the documents that fall within the scope of your request.
- Your views on public interest.
- the *Human Rights Act 2004*.

The FOI Act has a pro disclosure bias, which requires information to be disclosed unless doing so would be contrary to the public interest. As an Information Officer, I must decide where, on balance, public interest lies in the disclosure of government information. Section 17(1) of the Act sets out the steps for completing the public interest test. As part of this process, I must identify all

relevant factors in schedule 1 of the FOI Act. If no factor in schedule 1 is found relevant, I must then consider the factors listed in schedule 2 of the FOI Act and determine, on balance, where the public interest lies.

**Schedule 1:**

- No relevant sections identified.

**Schedule 2:**

**Factors favouring disclosure (Schedule 2.1)**

- Schedule 2.1(a)(viii) reveal the reason for a government decision and any background or contextual information that informed the decision.
- Schedule 2.1(a)(iv) ensure effective oversight of expenditure of public funds.

In reviewing the information falling in scope of your application, I recognise that the information you seek to access relates to the accessibility and management of public assets, and disclosure of information is likely to reveal the reason behind government decisions. I also identify that the management of public assets incorporate the expenditure of public funds, and disclosure of information may provide context and contribute to ensuring effective oversight of the expenditure of those funds. I also acknowledge that the pro-disclosure bias requires the public interest test to be approached on the basis that there are not simply empty scales in equilibrium, waiting for arguments to be put on each side. Rather, the scales are loaded in favour of disclosure.

I thank you for providing your views on public interest in your applications. It is my understanding that your application is not asserting wrongdoing. However, you also hold views that disclosure of the requested information may shed light on decision making processes, particularly involvement or influence from individuals affiliated with community groups. With consideration to these views, I have also considered the following factors:

- Schedule 2.1(a)(v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;
- Schedule 2.1 (a)(vi) reveal or substantiate that an agency or public official has engaged in misconduct or negligent, improper or unlawful conduct or has acted maliciously or in bad faith.

I have considered the [Freedom of Information \(Volume 4 – Considering the Public Interest\) Guidelines 2023](#) in determining the relevance of these factors. In this instance, I have not found the factors applicable, as they relate to instances where there has been evidence establishing that an agency or public official had engaged in conduct. This threshold indicates that an allegation alone is not sufficient for this factor to be applicable. In this instance, this threshold has not been met and I have not found these factors to be relevant.

**Factors favouring non-disclosure (Schedule 2.2)**

- Schedule 2.2(a)(iv) impede the administration of justice generally, including procedural fairness.
- Schedule 2.2(a)(xv) prejudice the management function of an agency or the conduct of industrial relations by an agency.
- Schedule 2.2(a)(xvi) prejudice a deliberative process of government.
- Schedule 2.2(b)(v) is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and disclosure of the information could prejudice the fair treatment of an individual.

While your application is not specified to be a complaint of potential misconduct, in your views of public interest you raise several points that align with a complaint. The ACT Government is obliged to take complaints of potential misconduct seriously, regardless of the format in which they are received, and are required to follow processes specified in relevant enterprise agreements<sup>1</sup> and government policies<sup>2</sup>. These processes are aligned with the principles of procedural fairness and natural justice.

I find schedule 2.2(b)(v) to apply, as the information sought relates to unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct. While your views on disclosure are that disclosure may shed light on concerns held about decision making, I consider the *Freedom of Information (Volume 4 – Considering the Public Interest) Guidelines 2023*, where an allegation is considered to be unsubstantiated if they have not been the subject of court proceedings or proceeding by a relevant tribunal or regulatory body. I also consider that the disclosure of the requested information is likely to significantly prejudice the fair treatment of an individual, as disclosure of information would impede on natural justice principals, including a right to be heard and procedural fairness. I further consider the processes required to be followed in the handling of a complaint or concern of conduct is a deliberative process. Disclosure of the information relevant to your application is likely to impede on deliberative processes of government, including the process of identifying and considering relevant material. Disclosure of information relating to an unsubstantiated allegation is likely to prejudice the fair treatment of an individual by impeding unbiased consideration of evidence.

I have also identified that the deliberative processes referred to above relate to the management functions of TCCS. Management functions of an agency include employment, performance reviews, counselling, discipline and occupational health and safety. These functions are subject to legislation and enterprise agreements, which create specific obligations TCCS must meet. The disclosure of information subject to your application is likely to prejudice TCCS' capability to meet its obligations regarding employment agreements and provide a workplace free from psychosocial hazards (including poor organisational justice<sup>3</sup>). I consider that the potential harm to TCCS' management functions also exceeds the parameters of the scope of your application as the obligations TCCS is required to meet is applicable to all employees. Considering the complex and far-reaching harm likely to be experienced on TCCS' management functions, I have attributed significant weight to this factor.

I find that the disclosure of information requested in your application is, on balance, contrary to the public interest. I therefore refuse access to the requested information in full.

### **Charges**

In accordance with [Freedom of Information \(Fees\) Determination 2018](#), a fee of \$0.35 per page of information disclosed, except for the first 50 pages, may be applied to an access application. No fee is applicable to your application.

### **Online publishing – disclosure log**

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. In accordance with section 28, your application, my decision, and the information disclosed to you will be published within 3 – 10 business days. Your personal information, and

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<sup>1</sup> Section G of the ACT-Public-Sector-Administrative-and-Related-Classifications-Enterprise-Agreement-2023-2026

<sup>2</sup> Managing workplace behaviours

<sup>3</sup> <https://www.safeworkaustralia.gov.au/safety-topic/managing-health-and-safety/mental-health/psychosocial-hazards/poor-organisational-justice>

personal information of others, will be removed prior to publication. You may view the TCCS' disclosure log [here](#).

**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 an 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: [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 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  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740  
[www.acat.act.gov.au](http://www.acat.act.gov.au)

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely



Lisa Johnson  
Information Officer

23 July 2024