



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 2021-212

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	Waived
6. Processing time (in working days)	50
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

From: [REDACTED]
To: [CMTEDD FOI](#)
Cc: [REDACTED]
Subject: RE: Freedom of Information Request [REDACTED]
Date: Friday, 13 August 2021 4:52:58 PM
Attachments: [image002.png](#)
[image003.png](#)
[2021.08.13 \(2\) Revised FOI request - 1 Webber Crescent, Calwell.pdf](#)

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 CMTEDD Information Officer

We **attach** our clients' FOI request. We look forward to receiving the documents.

With regards, [REDACTED].

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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FOI request by [REDACTED]

**Documents requested from the Chief Minister, Treasury and
Economic Development Directorate (CMTEDD)**



Please provide any documents relating to any contamination relating to the land being used as a service station, at 1 Webber Crescent, Calwell, ACT from January 2013 onwards. To assist with your searches, the following would be relevant:

- Reports prepared by consultants or taken from monitoring equipment;
- Reports of spills or leaks or concentrations of pollutants or petroleum;
- Testing of the land, soil or groundwater; and
- Reports or enquiries made by the EPA.

Please do not include:

- Internal emails within CMTEDD; and
- Emails which any of our clients are a party to, including emails to, from or [REDACTED].
- Reports, enquiries or other documents prepared for, or sent to, our clients; and
- If a document is sent to multiple recipients, duplicates of the document.



ACT
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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-212



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 2021.

Specifically, you are seeking: *"... any documents relating to any contamination relating to the land being used as a service station, at 1 Webber Crescent, Calwell, ACT (section 787, block 8 on deposited plan 7990) from January 2013 onwards. The following would be relevant:*

- *Reports prepared by consultants or taken from monitoring equipment;*
- *Reports of spills or leaks or concentrations of pollutants or petroleum;*
- *Testing of the land, soil or groundwater; and*
- *Reports or enquiries made by the EPA."*

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 Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 10 September 2021. However, following third party consultations which required a further 15 working days, and a further extension requested by a third party which required an additional 15 working days were sought by the responder, the due date is now 25 October 2021.

Decision on access

Searches were completed for relevant documents and 80 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 each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access in full to two documents and partial access to 78 documents relevant to your request.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

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

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;
- the views of interested third parties; 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:

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 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 these 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:

- (xiii) contribute to the administration of justice generally, including procedural fairness.*

Having considered the factors identified as relevant in this matter, I consider that release of the information contained in the documents may contribute to procedural fairness by allowing you to have a copy of the documents that fall within the scope of your request.

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 other rights under the Human Rights Act 2004;

Having reviewed the documents, I consider that the protection of an individual's right to privacy, is a significant factor as the parties involved have provided their personal information for the purposes of working with the ACT Government. This, in my opinion, outweighs the benefit which may be derived from releasing the personal identities of the individual's involved in this matter.

Individuals are entitled to expect that the personal information they have supplied as part of this process will be dealt with in a manner that protects their privacy. 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 identities of the individuals involved. I therefore weight the factor for non-disclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (names, email addresses, mobile phone numbers and information out of scope) could prejudice their right to privacy under the *Human Rights Act 2004*.

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.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2018* 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 in 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 that my decision is published in CMTEDD disclosure log, 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
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.

Yours sincerely



Katharine Stuart
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

22 October 2021



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
Documents relating to any contamination relating to the land being used as a service station, at 1 Webber Crescent, Calwell, ACT (section 787, block 8 on deposited plan 7990) from January 2013 onwards. The following would be relevant: Reports prepared by consultants or taken from monitoring equipment; Reports of spills or leaks or concentrations of pollutants or petroleum; Testing of the land, soil or groundwater; and Reports or enquiries made by the EPA.	CMTEDDFOI 2021-212

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-10	Environmental Authorisation No 0748	3 May 2016	Partial release	Sch 2 s2.2 (a)(ii)	Yes
2	12-17	Meeting Minutes – Caltex ACT Site Update	5 Feb 2020	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
3	19-28	ACT Environmental Authorisation under the Environment Protection Act 1997 – Authorisation No. 0748	19 Oct 2011	Partial release	Sch 2 s2.2 (a)(ii)	Yes
4	30-31	Email trail – Caltex Calwell Possible Notification by Landlord/Caltex to EPA	1 Apr 2014	Partial release	Sch 2 s2.2 (a)(ii)	Yes
5	33	Letter – Re Variations to Environmental Authorisation	6 May 2016	Partial release	Sch 2 s2.2 (a)(ii)	Yes
6	35-38	Letter from URS to Caltex – Use of HydraSleeve	21 Jan 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
7	40-41	Email trail – Groundwater monitoring at Caltex Calwell	9 Feb 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
8	43-45	Email trail – Caltex sites – EA Reporting	11 Jan 2018	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
9	47-49	Email trail – Re: Calwell 22176	8 Jan 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
10	51-140	Environmental Management Plan – Calwell	3 Nov 2020	Full release	N/A	Yes
11	142-143	Letter – EPA to Caltex – Environment Management Plans	29 Apr 2013	Partial release	Sch 2 s2.2 (a)(ii) Out of scope	Yes
12	145-308	Environment Management Plan – Caltex Calwell	Various	Partial release	Sch 2 s2.2 (a)(ii)	Yes
13	310-311	Email trail – Re: Caltex Calwell – Stormwater Treatment	7 Jun 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
14	313	Email – EPA to Caltex – SPEL system installed	28 Nov 2018	Partial release	Out of scope	Yes
15	315-316	Email trail – Caltex Stormwater & Sanitary Drainage Alterations	22 Aug 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes

16	318-321	Email – Caltex Calwell – Stormwater Treatment with attachments	6 Jun 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
17	323-325	Email with attachments – Caltex Stormwater & Sanitary Drainage Alterations	21 Aug 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
18	327-329	Letter – Caltex to EPA – Twelve-monthly groundwater monitoring at Caltex ACT Sites and site upgrade	19 Dec 2014	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
19	331-447	URS Final Groundwater Data Report – Caltex Calwell	27 Oct 2015	Partial release	Sch 2 s2.2 (a)(ii) Out of scope	Yes
		BINDER 2				
20	1-94	WSP Report for Caltex Groundwater Monitoring Event July 2017 – Results Report	Jul 2017	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
21	96-164	WSP Report for Ampol Australia Groundwater Monitoring Event Report November 2020	Dec 2020	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
		BINDER 3				
22	1-2	Caltex Sites in the ACT – Status update February 2018	Feb 2018	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
23	4-27	Caltex Calwell (Report Status – Final)	2 Dec 2013	Partial release	Sch 2 s2.2 (a)(ii)	Yes
24	29-78	Caltex Calwell (Report Status – Final)	25 Nov 2014	Partial release	Sch 2 s2.2 (a)(ii)	Yes
25	80-137	WSP Report for Ampol Australia Groundwater Monitoring Event Report September 2019	Dec 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
		BINDER 4				
26	1-2	Email – Ampol Calwell – Ampol to ACT Government	16 Dec 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
27	4-6	Letter – Caltex – Twelve-monthly groundwater monitoring at Caltex ACT Sites and site update	19 Dec 2014	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
28	8-12	WSP Letter to Caltex – SPEL sampling at Calwell site - Nov 2019	2 Jun 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
29	14-18	WSP Letter to Caltex – SPEL sampling at Calwell site – Dec 2020	4 Dec 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
30	20-27	WSP Letter to Caltex – SPEL sampling at Calwell site – May 2021	11 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
31	29-36	Letter – WSP to Caltex – Calwell SPEL sampling	13 Jan 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
32	38-41	Letter – WSP to Caltex – SPEL Puraceptor sampling at Caltex Calwell	27 Nov 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
33	43-44	Letter – Caltex to EPA – Variation request to Environmental Authorisation No. 0748 Caltex Calwell	5 Feb 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes

34	46-48	Internal Minute – Variation of Environmental Authorisation No 0748	5 Aug 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
35	50	Letter – EPA to Caltex – request to vary authorisation	6 Aug 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
36	51-60	ACT Environmental Authorisation under the Environment Protection Act 1997	6 Aug 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
37	62	Letter – EPA to Caltex – stormwater improvement	30 Nov 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
38	64-66	ACT Environmental Authorisation under the Environment Protection Act 1997	8 Jan 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
39	68-69	Internal Minute – Variation of Environmental Authorisation No. 0748	16 Sep 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
40	70-72	Letter to Caltex – Variation accepted	17 Sep 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
41	73-74	ACT Environmental Authorisation under the Environment Protection Act 1997	17 Sep 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
42	76-77	Caltex Sites in the ACT – Status Update June 2015	Jun 2015	Partial release	Out of Scope	Yes
43	79	Caltex Sites in the ACT – Six-monthly Gauging	Apr 2019	Partial release	Out of Scope	Yes
44	81-82	Caltex Sites in the ACT – Status Update November 2015	Nov 2015	Partial release	Out of Scope	Yes
		BINDER 5				
45	1-35	Caltex Calwell (report status – final) May 2013	20 Jun 2013	Partial release	Sch 2 s2.2 (a)(ii)	Yes
46	37-39	Email - Caltex Sites in the ACT – Status Update March 2015	Mar 2015	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
47	41-55	Email with attachments – Auditors Annual Return 2019 ACT	30 Aug 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
48	57-142	Email with attachments – Beneficial Re-Use Assessment – Stockpiled Soil	26 Sep 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
49		BINDER 6				
50	1-44	Email with attachments – Beneficial Reuse Suitability Assessment Report	5 Dec 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
51	46	Letter from Northwood Environmental to EPA	5 Dec 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
52	48	Email – EPA to Coffey – BRU Approval No 201853	26 Sep 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
53	50	Email – EPA to Northwood – BRU Approval No 201871	6 Dec 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes

54	52	Email – Samarkos to EPA BRU Approval	16 Oct 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
55	54-58	Email with attachments - Caltex to EPA – Caltex ACT Sites – February 2020 Update	4 Feb 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
56	60-62	Email with attachments – Caltex Sites Update April 2019	9 Apr 2019	Partial release	Sch 2 s2.2 (a)(ii)	Yes
57	64	Email – Douglas Partners to EPA – EPA Requirements	18 May 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
58	66-72	Email with attachment – Khoury to EPA – Auditor scope	17 Jun 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
59	74-76	Letter – Remedial Action Plan (RAP)	17 Apr 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
60	78-81	Email with attachments – Audit notification	11 Sep 2019	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
61	83	Email – EPA to Coffey – BRU Approval No 201866	2 Nov 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
62	85-86	Email – Douglas Partners to EPA – Caltex Calwell	25 Sep 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
63	88-92	Email – Douglas Partners and JK Group – Monitoring Status	3 Jan 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
64	94-120	Email – BRU Approval – Stockpiled material	1 Nov 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
65	122	Letter to EPA – Beneficial Reuse Assessment Report	1 Nov 2018	Full release	N/A	Yes
66	124-126	Email with attachment – BRU Approval to dispose at WBRMC	17 Oct 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
67	128-132	Email – Caltex Audit Sites update May 2014	19 May 2014	Partial release	Sch 2 s2.2 (a)(ii) Out of Scope	Yes
68	134-150	Email with attachments– Caltex Calwell Contaminated Land Notification Form	19 May 2014	Partial release	Sch 2 s2.2 (a)(ii)	Yes
69	152-153	Email – Possible notification to EPA	31 Mar 2014	Partial release	Sch 2 s2.2 (a)(ii)	Yes
70	155-156	Email trail – Douglas Partners to EPA – Monitoring status	11 Jan 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
71	158-159	Email trail – Caltex Calwell site	12 Jan 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
72	161-163	Email – Re: Calwell 22176	8 Jan 2020	Partial release	Sch 2 s2.2 (a)(ii)	Yes
73	165-166	Email – Calwell Service Station – ACT	27 May 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
74	168-169	Email trail – Re: Calwell Service Station – ACT	18 May 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes

75	171-172	Email trail - Re: Calwell Service Station – ACT	24 May 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
76	174-175	Email trail – Calwell Tank Replacement	18 Jun 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
77	177-179	Email trail	9 May 2017	Partial release	Sch 2 s2.2 (a)(ii)	Yes
78	181	Email – SAN for Calwell	9 Jul 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
79	183-185	Email trail – Re: [REDACTED] Caltex Calwell site	26 Sep 2018	Partial release	Sch 2 s2.2 (a)(ii)	Yes
80	187-189	Email with attachment – Statutory Site Audit Notification	3 Jul 2015	Partial release	Sch 2 s2.2 (a)(ii)	Yes
Total No of Docs						
80						