



ACT
Government

Chief Minister, Treasury and
Economic Development

Reference: 16-0120

s41(1)

via email: s41(1)

Dear s41(1)

FREEDOM OF INFORMATION (FOI)

I refer to your application under the *Freedom of Information Act 1989* (the Act) dated 15 November 2016. On 1 December 2016, Access Canberra received a partial transfer of your request from the Environment, Planning and Sustainable Development Directorate. In your request you sought access, under the Act, to numerous documents relevant to various earthworks, development and environmental works undertaken at the Mugga Lane Resource Management Centre (MLRMC) since November 2015.

After several discussions with Access Canberra you resubmitted your FOI on 11 April 2017, refining the scope of your initial request to documents held by Access Canberra in relation to the smell and the mitigating actions that have taken place to rectify the situation. This is specific to:

- any authorisations that have been made;
- any monitoring that has taken place and the outcomes of that monitoring; and
- any investigations that have been undertaken, the results, outcomes and strategies that have been implemented.

FOI decision maker

I am the officer authorised under section 22 of the Act to make a decision in relation to your request.

Identified Documents

A search of the documents you requested was undertaken by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD). This search identified many documents within the scope of your request. Please see a summary below of the documents that will be released to you:

- internal email communications;
- correspondence between ACT Government and Remondis representatives;
- reports and photos taken monitoring the MLRMC and odour;
- inter-jurisdictional consultation with New South Wales Environment Protection Authority (NSWEPA);
- review of Environmental Authorisation; and

- a letter from Greg Jones Director, Construction Environment and Workplace Protection to Michael Trushell, Director ACT NOWaste.

Third Party Consultation

Whilst preparing the documents for release we identified a report prepared by GHD on behalf of ACT NOWaste. The contents of the report relate to an odour assessment of MLRMC. After consultation with Transport Canberra and City Services (TCCS) they advised that this document contains information where there is commercial value in methodology and equipment used by GHD. On this advice we are currently consulting with GHD on the release of this document in accordance with section 27 of the Act.

- Section 27 of the Act allows for third parties to make submissions regarding the release of information under section 43(1) of the Act. Section 43(1) details that information may be exempt from release if its disclosure under the Act would unreasonably affect business affairs.

This consultation will not delay the release of the remaining documents within the scope of your request. Once a response has been received from GHD we will provide you with a decision on the release of this document.

Documents provided by TCCS

As you are aware your FOI request has identified documents in scope across three directorates, EPSDD, TCCS and CMTEDD. To avoid providing duplicate documents consultation occurred with TCCS on the release of a report prepared by The Odour Unit in regards to an initial odour assessment. This document is referenced as an attachment on page 183 within this binder. TCCS has confirmed that they will be providing this report as part of their response, therefore we have not included this report in our binder.

Decision

Although the Act facilitates the objective of public access to documents, access is subject to a number of exemption provisions as set out by the Act. Documents in your request are subject to exemptions set out by in accordance with section 41(1) and section 43(1) of the Act.

- Section 41(1) details that information may be exempt from release if its disclosure under the Act would unreasonably release personal information.
- Section 43(1) details that information may be exempt from release if its disclosure under the Act would unreasonably affect business affairs.

Exemptions made in accordance with section 41(1) include personal information such as names, contact details and addresses. Exemptions made in accordance with section 43(1) include cost estimates made by Remondis.

As part of my response to your FOI request, the Environment Protection Authority would like to offer an opportunity to brief you on the status of the issue at the MLRMC and discuss any of the documents that have been released to you. If you

would find this useful, please contact me directly on phone 70360 or by e-mail to arrange a suitable time.

You have the right to contact the Ombudsman regarding the processing of your request and you may contact the Ombudsman's Office at the following address:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

If you have any further queries regarding the processing of your request, or would like further information, please contact the FOI Coordinator, Mr Lachlan Thomas on phone 6207 6163.

Yours sincerely,

s41(1)



Greg Jones
Decision Maker
Director, Construction, Environment and Workplace Protection
Access Canberra

18 May 2017