



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 2021-136

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	No
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	20
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: [EPSDFOI](#)
To: [CMTEDD FOI](#)
Subject: Transfer of access application under the Freedom of Information Act - [REDACTED]
Date: Monday, 21 June 2021 12:19:53 PM
Attachments: [image002.png](#)
[image003.png](#)
[REDACTED]

OFFICIAL

Dear CMTEDD Colleagues,

EPSDD has received the below and attached access application, and we are seeking a full transfer to CMTEDD.

Could you please advise if you accept the transfer of this application received 17 June 2021.

Thank you

Kind regards,

Libby Hill

From: [REDACTED]
Sent: Thursday, 17 June 2021 5:50 PM
To: EPSDFOI <EPSDFOI@act.gov.au>
Cc: [REDACTED]
Subject: Access application under the Freedom of Information Act - [REDACTED]
[REDACTED]

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 FOI Information Management Team

Our clients, [REDACTED], and [REDACTED], and make the **attached** access application.

Please let us know how the documents can be accessed or how they will be provided.

With regards, [REDACTED]
[REDACTED]





Documents sought from the Environment Protection Authority under FOI request

By email to: epsdfoi@act.gov.au

Information sought is from the Environment Protection Authority (**EPA**) concerning 1 Webber Crescent, Calwell, being section 787, block 8 on deposited plan 7990.

Since 1991, Ampol (then known as Caltex) has leased the Land from the FOI Applicant, using it as a service station.

In this application, a reference to:

1. **Ampol** means:
 - (a) Ampol Australia Petroleum Pty Ltd;
 - (b) Caltex Australia Petroleum Pty Ltd;
 - (c) anyone communicating with the EPA on Ampol or Caltex's behalf including AECOM Australia Pty Ltd, Parsons Brinckerhoff Australia Pty Ltd, Leighton O'Brien Field Services Pty Ltd ;
 - (d) anyone purporting to be commissioned or engaged by Ampol or Caltex.
2. **Documents** includes, in paper or electronic formats, records, letters, emails, notices, communications, reports, audits, assessments, file notes, photographs and video recordings.
3. **EPA** means:
 - (a) the Environment Protection Authority and any statutory predecessor;
 - (b) any other entity, delegate, authority or taskforce forming part of the Environment, Planning and Sustainable Development Directorate, and any statutory predecessor.
4. 
5. **Land** means 1 Webber Crescent, Calwell, being section 787, block 8 on deposited plan 7990, and includes the land below and above the land's surface such as the soil.
6. **Period** means during 1991 and continuing to date.
7. 

Documents Sought

The following Documents, whether they were created, received, held or sent, during the Period are sought:

1. Documents concerning Ampol's investigations, enquiries, reports, obligations to monitor or assess, or other Documents, about:
 - (a) The Land's soil;
 - (b) The Land's groundwater;

- (c) Anything installed or affixed to the Land for monitoring purposes;
 - (d) Any contamination of the Land, or possible contamination, or the presence or concentration of chemicals at levels associated with petroleum contamination in the Land; and
 - (e) The cause of any contamination of the Land, or possible contamination of the Land.
2. Documents concerning the EPA's investigations, enquiries, reports, obligations to monitor or assess, or other Documents about:
- (a) The Land's soil;
 - (b) The Land's groundwater;
 - (c) Anything installed or affixed to the Land for monitoring purposes;
 - (d) Any contamination of the Land, or possible contamination, or the presence or concentration of chemicals at levels associated with petroleum contamination in the Land; and
 - (e) The cause of any contamination of the Land, or possible contamination of the Land.
3. Documents concerning Third Parties' investigations, enquiries, reports, obligations to monitor or assess, or other Documents about:
- (a) The Land's soil;
 - (b) The Land's groundwater;
 - (c) Anything installed or affixed to the Land for monitoring purposes;
 - (d) Any contamination of the Land, or possible contamination, or the presence or concentration of chemicals at levels associated with petroleum contamination in the Land; and
 - (e) The cause of any contamination of the Land, or possible contamination of the Land.
4. Documents concerning the FOI Applicants' investigations, enquiries, reports, obligations to monitor or assess, or other Documents about:
- (a) The Land's soil;
 - (b) The Land's groundwater;
 - (c) Anything installed or affixed to the Land for monitoring purposes;
 - (d) Any contamination of the Land, or possible contamination, or the presence or concentration of chemicals at levels associated with petroleum contamination in the Land; and
 - (e) The cause of any contamination of the Land, or possible contamination of the Land.



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 14 July 2021.

Specifically, you are seeking "... any documents relating to any contamination at [REDACTED] ACT from December 2011 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.*
- *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 cc'ing [REDACTED]."

Authority

As an appointed Information Officer under section 18 of the Act, I am authorised to make a decision on access or amendment to government information in the possession or control of CMTEDD.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 11 August 2021.

Decision on access

I have decided to refuse to deal with your application under section 35(1)(d) and section 43(1)(a) of the Act because the information you are seeking would require an unreasonable and substantial diversion of the Directorate's resources.

Section 35(1)(d) states:

- (1) *The respondent decides an access application for government information by deciding—*
 - (d) *to refuse to deal with the application (see section 43);*

Section 43(1)(a) states:

(1) A respondent may refuse to deal with an access application wholly or in part only if—

(a) dealing with the application would require an unreasonable and substantial diversion of the respondent's resources (see section 44).

On 13 July 2021 I wrote to you advising of my intention to refuse your request pursuant to section 43(1) of the Act. In this letter I provided you the opportunity to refine your request to reduce the number of documents captured in its current form. On 14 July 2021, I received a response from you refining the scope of your request as outlined above.

I have undertaken a search for the documents you have requested in your 14 July 2021 response. The number of documents identified as remaining with the scope of your request is over 2000 pages. Many of the documents contain highly technical information which will require specialist knowledge to interpret to enable me to make a decision in relation to access. In addition, I have identified at least eight of relevant third parties which, in accordance with Section 38(2) of the Act, I am required to take reasonable steps to consult with before deciding to give access to the information. This information is spread over a wide range of documents requiring an intensive collation process. I have considered the public interest that would be advanced by processing this request in its current form and have concluded that it does not justify the unreasonable diversion of the agency's resources.

Accordingly, I have decided to refuse to deal with this request in its current form. A member of my team will contact you shortly to discuss other options for obtaining the information you have requested.

Charges

Processing charges are not applicable for this request because no pages are being released to you.

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 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 date of my decision, 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



Daniel Riley

Information Officer

Information Access Team

Chief Minister, Treasury and Economic Development Directorate

11 August 2021