



**ACT**  
Government

Justice and Community Safety

I refer to your letter received on 2 November 2011 in which you sought access under the *Freedom of Information 1989* (the Act) to documents relating to the establishment and operations of Energy Services Invironmental (ESI), a company which provided dechlorination and recycling services from a site of Dacre Street in Mitchell.

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

A review of files has located several documents from both the Emergency Services Agency and the Office of Regulatory Services within the scope of your request. Following review and consideration of these documents, I have determined to fully release some documents and partially release other documents. The attached schedules outline my decision in relation to the documents.

Although the Act facilitates the objective of public access to documents, access is subject to a number of exemption provisions as set out in the Act. Documents in your request are subject to exemptions as set out by section 11 (1)(b), section 37(1) (a), section 41(1) and section 43 of the Act. I will address each of these sections below.

**Section 11 Pt 3 not to apply to certain documents**

- (1) A person is not entitled to obtain access under this part to—
- (b) a document that is available for purchase by the public in accordance with arrangements made by an agency

These documents are available for purchase from the Office of Regulatory Services.

**37 Documents affecting enforcement of the law and protection of public safety**

- (1) A document is an exempt document if its disclosure under the Act would, or could reasonably be expected to—
- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance.

These documents all contain information which has the potential to prejudice current investigations being undertaken by Worksafe ACT into the hazardous material fire at Mitchell.

I have determined that these documents involve the unreasonable disclosure of personal information about persons who have provided a service to ACT Fire and Rescue or Energy Services Environmental.

#### **41 Documents affecting personal privacy**

(1) A document is an exempt document if its disclosure under the Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

These documents originated from various businesses and contain information that the directors, of the companies, believe would diminished the value of their companies should the information be released. I have reviewed the documents and also believe that release of this information would have the capacity to undermine the value of the companies.

#### **43 Documents relating to business affairs etc**

(1) A document is an exempt document if its disclosure under this Act would disclose—

(a) trade secrets; or

(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed;

(c) have an adverse effect on the operation or activities of a business or future supply of information to government

To assist you to interpret my decision I have attached a schedule for each file at Attachment A.

#### **Fees and charges**

Freedom of information requests attract fees and charges for time spent searching and retrieving documents, decision-making time and photocopying. In relation to your request, I have decided that no fee is payable as the issue can be considered a matter in the interest of the public.

#### **On line access**

I have also assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that the information being released to you will be published online. For more information about the ACT Government's *Online Freedom of Information Publication Policy*, visit [www.cmd.act.gov.au](http://www.cmd.act.gov.au).

#### **Review of Decision**

You have a right to seek a review of the outcome under section 59 of the Act. You have 28 days from the date of this letter, or such other period as the Director-General permits, to seek a review. This right of review extends to a review of the adequacy of the search

for documents undertaken by the Directorate. If you wish to seek a review you should write to:

The Director-General  
ACT Justice and Community Safety Directorate  
C/- Freedom of Information Officer  
GPO Box 158  
CANBERRA ACT 2601

You also have the right to complain to the Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

If you have any queries in relation to this matter, please do not hesitate to contact my office on 620 74813.

Yours sincerely



Rachael Jackson  
Director Governance  
Justice and Community Safety  
4 January 2012