



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 2022-205

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	Yes
5. Fees	N/A
6. Processing time (in working days)	35
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](#)
Subject: [REDACTED]
Date: Tuesday, 5 July 2022 12:42:11 PM

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. [Learn why this is important](#)

Dear Worksafe ACT

We are a firm of [REDACTED] investigating a fire that occurred at [REDACTED] ACT 2609 on 30 May 2021. We are retained by [REDACTED] who is the public liability insurer of one of the tenants, [REDACTED].

The cause of the fire was due to lithium batteries and we understand Worksafe ACT have/are currently performing an investigation into the matter. We would like to make a Freedom of Information (FOI) request to obtain a copy of any report and/or findings available, and would appreciate your advice regarding how we do this, and the costs associated with same.

We look forward to hearing from you.

kind rgds





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2022-205



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 5 July 2022.

Specifically, you are seeking: "...we are a firm of [redacted] investigating a fire that occurred at [redacted] ACT 2609 on 30 May 2021. We are retained by [redacted] who is the public liability insurer of one of the tenants, [redacted]."

The cause of the fire was due to lithium batteries, and we understand WorkSafe ACT have/are currently performing an investigation into the matter. We would like to make a Freedom of Information (FOI) request to obtain a copy of any report and/or findings available."

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 was required to provide a decision on your access application by 2 August 2022 however, following third party consultations, the due date is now 23 August 2022.

Decision on access

Searches were completed for relevant documents and seven 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 the documents that fall within the scope of your request and the access decision for those documents.

I have decided to grant access in full to one document and partial access to six documents.

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 *Human Rights Act 2004*.

Exemption claimed

My reasons for deciding not to grant access to the identified documents 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 [public interest] 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 the 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 document 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, especially in the course of dealings with the ACT Government 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 information 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 information of the individuals involved. I therefore weight the factor for nondisclosure more highly than the factor in favour of release in this instance. As a result, I have decided that release of this information (email addresses, signatures, identifying details and names of individuals not employed by the ACT Public Service) 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

Processing charges are not applicable for this request because the number of pages to be released to you is below the charging threshold of 50 pages.

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 on the CMTEDD disclosure log 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

23 August 2022



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
WorkSafe ACT have/are currently performing an investigation into a fire that occurred at [REDACTED] ACT 2609 on 30 May 2021. The cause of the fire was due to lithium batteries and we would like to request a copy of any report and/or findings available.	CMTEDDFOI 2022-205

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	WorkSafe ACT inspectors notes	31 May 2021	Partial release	Out of scope	Yes
2	3-4	Work place visit report	31 May 2021	Full release	N/A	Yes
3	5	WorkSafe ACT inspector notes	2 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
4	6-7	Work place visit report	7 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
5	8-11	Prohibition Notice	7 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
6	12-13	Work place visit report	7 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes
7	14-17	Prohibition Notice	7 Jun 2021	Partial release	Sch 2 s2.2 (a)(ii)	Yes

**Total No
of Docs**

7

Out of scope

31/5/21 On call phone
9:05 ACT Fire & Rescue
Battery Fire

[redacted] Street

Briefing at 10AM

EPA, AFP on scene

9:20 Left home to attend

9:40 Arrived @ [redacted]

Street Fishwick

Commander Glen Jones

Briefing with WS, EPA

Roads & Bridges set for

10am

Fire in [redacted]

lithium battery charge

Water run off thru

EPA.

10am approx time started

waiting for system to

cool to do investigation

Will check again in

7
00
00
00
00
00

3/5/21	4 hours left site after briefing
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Out of scope

Out of scope

Initial Information

Inspection Number: 00072914

Lead inspector: Jodie FLETCHER Inspector ID: P05554

Is there any accompanying inspectors: No

Type of visit: Reactive

Date of visit: 31/05/2021

Legislation visit conducted under: WHS

Purpose of visit: Other

Entity information

Type of entity:

Name of individual or registered company: unknown Unkown

Trading as:

ACN:

ABN:

Industry Group:

Address:

Contact Name: ANON Anon Anon

Contact Number:

Contact Email:

Details of visit

Address: [REDACTED] Street Fyshwick ACT 2609

Notification of entry to (as required by s164): PCBU

Were any potential breaches of the legislation identified? No

Inspector notes:

Inspector Fletcher attended [REDACTED] Street Fyshwick after receiving call from ACT FIRE and RESCUE requested a WorkSafe ACT rep for a briefing at 10 AM.

Inspector Fletcher met with with scene commander Glen Jones who and a member of EPA.

EPA were satisfied the black water has been pumped out into a paddock and the water currently being used was working appropriately. There were no concerns in relation to air quality etc.

Water samples have been taken and will be sent to lab for testing. EPA will return later in afternoon to do some more checks.

Limited details available at the time as call came through from member of public to AFP on Sunday 30 May 2021 - these details can be obtained from AFP Command Centre.

Fire is/was contained to [REDACTED] where lithium batteries for scooters are stored and charged. Surrounding units have sustained smoke damage.

ACT Fire will continue to saturate unit waiting for lithium charge station to cool and stop releasing gas before they can enter and determine if it was deliberately lit or an accident.

Disclaimer: The issues identified during this inspection are only indicative of compliance with the Work Health and Safety Act 2011, the Work Health and Safety Regulations 2011, the Dangerous Substances Act 2004 and the Workers Compensation Act 1951 on the date of the inspection. If compliance is identified during this inspection, it does not remove the obligation of any person to comply with any further requirement of the above mentioned Acts and Regulations.

Further action

Further action required:

Previous notice/s issued (either written or verbal)?

Contacts

Lead inspector email address: jodie.fletcher@act.gov.au

Recipient/s of this form

Email: jodie.fletcher@act.gov.au

Email 2:

Privacy Notice: The information collected for the purpose of the Work Health and Safety Act 2011 and is in accordance with the Information Privacy Act 2014. WorkSafe ACT prevents any unreasonable intrusion into person's privacy in accordance with the Privacy Act 1988 (C'With) and Information Privacy Act 2014. WorkSafe ACT provides identifiable information which can be disclosed to other law enforcement agencies and authorised organisation that have legal authority to request information under prescribed circumstances.

2/6/21

Paul. Colussi @ act.gov.au

1:13pm met with Paul Colussi (ACT Fire result)

Sch 2.2(a)(ii) (operation Manager for Canberra/Sydney)

Sch 2.2(a)(ii) @ [redacted].com

Sch 2.2(a)(ii) (Legal Counsel / Director)

Sch 2.2(a)(ii) @ [redacted].com

Property Manager

Sch 2.2(a)(ii) (P)

PROPERTY
MANAGER

Sch 2.2(a)(ii)

Nearly 9 months (lease for 12 months)

Sch 2.2(a)(ii)

Scott McKeagie, for fire

1:52 - 19

Sch 2.2(a)(ii)

2:16 - 5.3

Both verbal

1. Engage insurance company talks first.

2. cleaners

3. Documentation

Sch 2.2(a)(ii)

- advised site is locked and security.

Initial Information

Inspection Number: 00074273

Lead inspector: Luis ALVES Inspector ID: P43303

Is there any accompanying inspectors: No

Type of visit: Reactive

Date visit commenced: 07/06/2021

Legislation visit conducted under: WHS

Purpose of visit: Dangerous substances

Entity information

Type of entity: Business Entity

Name of individual or registered company

Trading as:

ACN:

ABN: 62629999533

Industry Group: Other

Address: ACT

Contact Name:

Contact Number:

Contact Email:

Details of visit

Address: Street Fyshwick ACT 2609

Notification of entry to (as required by s164): PCBU

Were any potential breaches of the legislation identified? Yes

Hazardous Substances

Inspector notes:

WorkSafe ACT Inspectors Alves and Chhina attended Street Fyshwick at 1:13 pm on 2 June 2021, which was being used as a storage and charging facility for operated by A fire has caused damage to numbers of batteries, chargers and

After meeting with Sch 2.2(a)(ii) Operation Manager of Sch 2.2(a)(ii) Property Manager from and Paul Colussi, ACT Fire and Rescue Commander, we discussed outcomes.

Whilst having discussion, ACT Fire and Rescue Paul Colussi advised that site is ready to be handed over to PCBU for further course of action.

Once site handed over by Paul, Inspector Alves explained to PCBU, that even though the site has been handed over, site still has foreseeable hazards that could pose risk to the health and safety of the workers or other persons. Inspector Alves advised to engage a Hazardous Substances Consultant/ Occupational

Hygienist to ensure the site has been made safe by removing and disposing of the hazardous substances in a safe manner. Once the site has been deemed safe again, workers and others may return. Inspector advised no access to the facility should occur until Consultant/ Occupational Hygienist assess the facility and deems it safe for workers to return. Inspector Alves also recommended that the assessment report be sent to WorkSafe ACT for review.

Disclaimer: The issues identified during this inspection are only indicative of compliance with the Work Health and Safety Act 2011, the Work Health and Safety Regulations 2011, the Dangerous Substances Act 2004 and the Workers Compensation Act 1951 on the date of the inspection. If compliance is identified during this inspection, it does not remove the obligation of any person to comply with any further requirement of the above mentioned Acts and Regulations.

Further action

Further action required: Yes

Previous notice/s issued (either written or verbal)? No

Contacts

Lead inspector email address: luis.alves@act.gov.au

Recipient/s of this form

Email: Sch 2.2(a)(i) @ [redacted] .com

Email 2: Sch 2.2(a)(i) @ [redacted] .com

Privacy Notice: The information collected for the purpose of the Work Health and Safety Act 2011 and is in accordance with the Information Privacy Act 2014. WorkSafe ACT prevents any unreasonable intrusion into person's privacy in accordance with the Privacy Act 1988 (C'With) and Information Privacy Act 2014. WorkSafe ACT provides identifiable information which can be disclosed to other law enforcement agencies and authorised organisation that have legal authority to request information under prescribed circumstances.

PROHIBITION NOTICE

This is a Prohibition Notice issued under section 195 of the Work Health and Safety Act 2011

Information

Notice number N-0000001555

Issued By: Luis ALVES ID number: P43303

To whom this notice is issued

Name of registered company: [REDACTED]

Business or trading name: [REDACTED]

[REDACTED]

Registered Address: suburb: state: ACT postcode:

Site address: [REDACTED] Street suburb: Fyshwick state: ACT postcode: 2609

Method of service: Email

Served on: Sch 2.2(a)(ii)

Date of issue: 07/06/2021

A verbal instruction was issued on:

03/06/2021 01:06 PM

Description

The provision that the inspector believes is being, or is likely to be, contravened by the activity (s196(1)(c)) is **WHS Acts Section number - 19(3)**

You are prohibited from carrying on the following activity, or the carrying on of the activity in a specified way:

Access to the facility at [REDACTED] Street in Fyshwick which has been damaged due to fire at the premise and the unforeseen hazards caused due to the burning of lithium ion batteries, plastics and any other materials. Workers and any other persons maybe exposed to serious risks to their health and safety due to incompatible hazardous chemical materials.

until the inspector is satisfied that the matters that give or will give rise to the risk have been remedied (s195(2)).

The inspector reasonably believes that grounds for the issue of this notice exist (s195(1)), i.e. (a) an activity is occurring at a workplace that involves, or will involve, a serious risk to the health or safety of a person emanating from an immediate exposure to a hazard; or (b) an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard.

Basis for belief (s196(1)(a))

Without limiting subsections (1) and (2), a person conducting a business or undertaking must ensure, so far as is reasonably practicable—
(a) the provision and maintenance of a work environment without risks to health and safety; and

(b)the provision and maintenance of safe plant and structures; and
(c)the provision and maintenance of safe systems of work; and
(d)the safe use, handling, storage and transport of plant, structures and substances; and
(e)the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking,including ensuring access to those facilities; and
(f)the provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking; and
(g)that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking.

Briefly, the activity that the inspector believes involves or will involve the risk, and the matters that gave or will give rise to the risk (s196(1)(b))

WorkSafe ACT Inspectors Alves and Chhina attended [REDACTED] Street Fyshwick at 1:13 pm on 2 June 2021, which was being used as a storage and charging facility for [REDACTED] operated by [REDACTED]. A fire has caused damage to numbers of batteries, chargers and r [REDACTED]. Observations, discussion and speaking to Paul from ACT Fire and Rescue, revealed that wreckage may have incompatible hazardous chemical mixtures which may expose serious risks to the health and safety of the workers and or others at the premise.

This Notice may include directions concerning the measures to be taken to remedy the risk or contravention. You must comply with the direction

Inspectors prohibit you from gaining access to the facility at [REDACTED] Street in Fyshwick which has been damaged due to fire at the premise.
Inspectors advised to engage a Hazardous Substances Consultant/ Occupational Hygienist to ensure the site has been made safe by removing and disposing of the hazardous substances in a safe manner. Once the site has been deemed safe again, workers and others may return once the inspectors have received the required paperwork from the Consultant/ Occupational Hygienist deeming the site safe.

The inspector recommends that you:

In complying with the direction, you may give consideration to further guidance available from;
<https://www.worksafe.act.gov.au/laws-and-compliance/codes-of-practice>
<https://legislation.act.gov.au/ni/2020-554/>
<https://legislation.act.gov.au/ni/2020-551/>

See over for important information on your rights and responsibilities.

Prohibition Notice issued under section 191 of the Work Health and Safety Act 2011 - further information

If you have any questions you may contact the inspector who issued this notice.

Display of Notices

A person to whom a notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice (s 210(1)). A person must not intentionally remove, destroy, damage or deface a notice displayed under s 210(1) while the notice is in force (s 210(2)). The maximum penalty for failing to comply with these provisions is \$5,000 for an individual or \$25,000 for a corporation.

Compliance with direction or notice

The person to whom a Prohibition notice is issued must comply with the notice (s197). The maximum penalty for failing to comply with this requirement is \$100,000 for an individual or \$500,000 for a corporation.

Regulator may carry out action

If a person to whom a prohibition notice is issued fails to take reasonable steps to comply with the notice, and after giving written notice of its intentions and the persons liability for the costs, the regulator (WorkSafe ACT) may take any remedial action it believes reasonable to make the workplace or situation safe (s 211). The regulator may then recover the reasonable costs of taking this remedial action (s213).

Contents of Notice

This Notice may state one or more of the following: (a) a workplace, or part of a workplace, at which the activity is not to be carried out; (b) anything that is not to be used in connection with the activity; (c) any procedure that is not to be followed in connection with the activity (s196(3)).

Directions and recommendations

A direction may refer to a code of practice and may offer the person a choice of ways in which to remedy the contravention (s 204). A Prohibition notice may include recommendations. It is not an offence to fail to comply with recommendations in a notice (s205).

Changes to notice by inspector

An inspector may make minor changes to a notice for clarification, to correct errors or references, or to reflect changes of address or other circumstances (s206).

Privacy statement

WorkSafe ACT may obtain personal information about you in connection with this notice. The information may be collected and stored using the powers, and to carry out functions or activities, under the *Work Health and Safety Act 2011* and related work safety laws. Under that Act, the information can be disclosed to other ACT Government agencies or non-government organisations, and other Australian work safety enforcement agencies.

WorkSafe ACT is obliged to handle your information openly, transparently and in accordance with the Territory Privacy Principles set out in the *Information Privacy Act 2014*. For more information about how WorkSafe ACT will collect, use, share, and store your personal information and how you can access and correct the information, please see the Privacy Statement at www.act.gov.au/privacy.

Review of this *Work Health and Safety Act* notice

If you have any questions or need more information you may contact the inspector who issued this notice, or email worksafe@act.gov.au.

You, or another person whose interests are affected by the decision, may apply for an internal review of the decision to issue this notice.

A review may be sought within 14 days. You may also make an application for the reviewer to stay the operation of the Prohibition notice.

Please ensure you include the notice number in your application for a review, together with the applicant's name and address, and the reason you are seeking the review.

An application for a review can be made in writing to: The Work Health and Safety Commissioner WorkSafe ACT, GPO Box 158 Canberra City ACT 2601 or by email: worksafe@act.gov.au

You may then seek a review of an internal reviewer's decision in the ACT Civil and Administrative Tribunal (ACAT). Information about that process can be found at www.acat.act.gov.au.

The decision to issue this notice is also reviewable under the *Administrative Decisions (Judicial Review) Act 1989* on application to the ACT Supreme Court. Further, a person may make a complaint to the ACT Ombudsman about the issue of this notice.

WorkSafe ACT contact details

PO Box 158, Canberra ACT 2601

Email: [Worksafe @act.gov.au](mailto:Worksafe@act.gov.au)

Phone: (02) 6207 3000

Fax:(02) 6205 0336.

Translating and Interpreting Service

Phone: 131 450

Initial Information

Inspection Number: 00074518

Lead inspector: Luis ALVES Inspector ID: P43303

Is there any accompanying inspectors: No

Type of visit: Reactive

Date of visit: 08/06/2021

Legislation visit conducted under: WHS

Purpose of visit: Dangerous substances

Entity information

Type of entity: Business Entity

Name of individual or registered company: [REDACTED]

Trading as: [REDACTED]

ACN:

ABN: [REDACTED]

Industry Group: Other

Address: ACT

Contact Name: Sch 2.2(a)(ii)

Contact Number: Sch 2.2(a)(ii)

Contact Email: Sch 2.2(a)(ii)

Details of visit

Address: [REDACTED] Street Fyshwick ACT 2609

Notification of entry to (as required by s164): PCBU

Were any potential breaches of the legislation identified? No

Inspector notes:

WorkSafe ACT Inspectors Alves and Chhina attended [REDACTED] Street Fyshwick at 1:13 pm on 2 June 2021, which was affected by a fire at [REDACTED]. The whole complex consists of 6 Units which is managed by [REDACTED]. Inspectors Chhina and Alves met up with Sch 2.2(a)(ii) of [REDACTED].

Observations and discussions with Sch 2.2(a)(ii) revealed that [REDACTED] and [REDACTED] have been affected by smoke. [REDACTED] has been damaged by smoke and fire which was being used as a storage and charging facility for [REDACTED] operated by [REDACTED].

Whilst having discussions with Paul Colussi ACT Fire and Rescue Commander and Sch 2.2(a)(ii) Inspectors explained to Sch 2.2(a)(ii) that even though the complex has been handed over, the complex still has foreseeable hazards that could pose risk to the health and safety of the workers or other persons. Inspectors advised to engage a Hazardous Substances Consultant/Occupational Hygienist to ensure the complex has been made safe for other tenants and workers by removing and disposing of the hazardous

substances in a safe manner. Once the complex has been deemed safe again, workers and others may return. Inspectors advised no access to the complex should occur until Consultant/ Occupational Hygienist assess the complex and deems it safe for workers to return. Inspectors also recommended that the assessment report be sent to WorkSafe ACT for review.

Disclaimer: The issues identified during this inspection are only indicative of compliance with the Work Health and Safety Act 2011, the Work Health and Safety Regulations 2011, the Dangerous Substances Act 2004 and the Workers Compensation Act 1951 on the date of the inspection. If compliance is identified during this inspection, it does not remove the obligation of any person to comply with any further requirement of the above mentioned Acts and Regulations.

Further action

Further action required: Yes

Previous notice/s issued (either written or verbal)?

Contacts

Lead inspector email address: luis.alves@act.gov.au

Recipient/s of this form

Email: Sch 2.2(a)(ii)

Email 2:

Privacy Notice: The information collected for the purpose of the Work Health and Safety Act 2011 and is in accordance with the Information Privacy Act 2014. WorkSafe ACT prevents any unreasonable intrusion into person's privacy in accordance with the Privacy Act 1988 (C'Wlth) and Information Privacy Act 2014. WorkSafe ACT provides identifiable information which can be disclosed to other law enforcement agencies and authorised organisation that have legal authority to request information under prescribed circumstances.

PROHIBITION NOTICE

This is a Prohibition Notice issued under section 195 of the Work Health and Safety Act 2011

Information

Notice number N-0000001556

Issued By: Luis ALVES ID number: P43303

To whom this notice is issued

Name of registered company: [REDACTED]

Registered Address: suburb: state: ACT postcode:

Site address: [REDACTED] Street suburb: Fyshwick state: ACT postcode: 2609

Method of service: Email

Served on: Sch 2.2(a)(ii)

Date of issue: 08/06/2021

A verbal instruction was issued on:

03/06/2021 02:06 PM

Description

The provision that the inspector believes is being, or is likely to be, contravened by the activity (s196(1)(c)) is **WHS Acts** Section number - **19(3)**

You are prohibited from carrying on the following activity, or the carrying on of the activity in a specified way:

Access to the complex at [REDACTED] Street in Fyshwick which has been damaged due to fire at [REDACTED] of the complex and the unforeseen hazards caused due to the burning of lithium ion batteries, plastics and any other materials. Workers and any other persons maybe exposed to serious risks to their health and safety due to incompatible hazardous chemical materials.

until the inspector is satisfied that the matters that give or will give rise to the risk have been remedied (s195(2)).

The inspector reasonably believes that grounds for the issue of this notice exist (s195(1)), i.e. (a) an activity is occurring at a workplace that involves, or will involve, a serious risk to the health or safety of a person emanating from an immediate exposure to a hazard; or (b) an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard.

Basis for belief (s196(1)(a))

Section 19 - Primary duty of care,
(3) A person conducting a business or undertaking must ensure, so far as is reasonably practicable—
(c)the provision and maintenance of safe systems of work; and
(d)the safe use, handling, storage and transport of plant, structures and substances.

Briefly, the activity that the inspector believes involves or will involve the risk, and the matters that gave or will give rise to the risk (s196(1)(b))

On the 31 May 2021 at 10am, WorkSafe ACT received a call from Fire Brigade with regards to a fire at [REDACTED] in Fyshwick. WorkSafe ACT Inspectors Alves and Chhina attended site at 1:13pm on 2 June 2021 and noted that fire has caused damage to [REDACTED]. Observations, discussion and speaking to Paul Colussi from ACT Fire and Rescue and Sch 2.2(a)(ii) [REDACTED] revealed that wreckage at [REDACTED] may have incompatible hazardous chemical mixtures which may expose serious risks to the health and safety of the workers and others tenants of the complex.

This Notice may include directions concerning the measures to be taken to remedy the risk or contravention. You must comply with the direction

Engage a Hazardous Substances Consultant/Occupational Hygienist to ensure the complex has been made safe for other tenants and workers by removing and disposing of the hazardous substances in a safe manner. Once the complex has been deemed safe again, workers and others may return. Inspectors advised no access to the complex should occur until Consultant/ Occupational Hygienist assess the complex and deems it safe for workers to return. Inspectors also recommended that the assessment report be sent to WorkSafe ACT for review.

The inspector recommends that you:

In complying with the direction, you may give consideration to further guidance available from;
<https://www.worksafe.act.gov.au/laws-and-compliance/codes-of-practice>
<https://legislation.act.gov.au/ni/2020-554/>
<https://legislation.act.gov.au/ni/2020-551/>

See over for important information on your rights and responsibilities.

Prohibition Notice issued under section 191 of the Work Health and Safety Act 2011 - further information

If you have any questions you may contact the inspector who issued this notice.

Display of Notices

A person to whom a notice is issued must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice (s 210(1)). A person must not intentionally remove, destroy, damage or deface a notice displayed under s 210(1) while the notice is in force (s 210(2)). The maximum penalty for failing to comply with these provisions is \$5,000 for an individual or \$25,000 for a corporation.

Compliance with direction or notice

The person to whom a Prohibition notice is issued must comply with the notice (s197). The maximum penalty for failing to comply with this requirement is \$100,000 for an individual or \$500,000 for a corporation.

Regulator may carry out action

If a person to whom a prohibition notice is issued fails to take reasonable steps to comply with the notice, and after giving written notice of its intentions and the persons liability for the costs, the regulator (WorkSafe ACT) may take any remedial action it believes reasonable to make the workplace or situation safe (s 211). The regulator may then recover the reasonable costs of taking this remedial action (s213).

Contents of Notice

This Notice may state one or more of the following: (a) a workplace, or part of a workplace, at which the activity is not to be carried out; (b) anything that is not to be used in connection with the activity; (c) any procedure that is not to be followed in connection with the activity (s196(3)).

Directions and recommendations

A direction may refer to a code of practice and may offer the person a choice of ways in which to remedy the contravention (s 204). A Prohibition notice may include recommendations. It is not an offence to fail to comply with recommendations in a notice (s205).

Changes to notice by inspector

An inspector may make minor changes to a notice for clarification, to correct errors or references, or to reflect changes of address or other circumstances (s206).

Privacy statement

WorkSafe ACT may obtain personal information about you in connection with this notice. The information may be collected and stored using the powers, and to carry out functions or activities, under the *Work Health and Safety Act 2011* and related work safety laws. Under that Act, the information can be disclosed to other ACT Government agencies or non-government organisations, and other Australian work safety enforcement agencies.

WorkSafe ACT is obliged to handle your information openly, transparently and in accordance with the Territory Privacy Principles set out in the *Information Privacy Act 2014*. For more information about how WorkSafe ACT will collect, use, share, and store your personal information and how you can access and correct the information, please see the Privacy Statement at www.act.gov.au/privacy.

Review of this *Work Health and Safety Act* notice

If you have any questions or need more information you may contact the inspector who issued this notice, or email worksafe@act.gov.au.

You, or another person whose interests are affected by the decision, may apply for an internal review of the decision to issue this notice.

A review may be sought within 14 days. You may also make an application for the reviewer to stay the operation of the Prohibition notice.

Please ensure you include the notice number in your application for a review, together with the applicant's name and address, and the reason you are seeking the review.

An application for a review can be made in writing to: The Work Health and Safety Commissioner WorkSafe ACT, GPO Box 158 Canberra City ACT 2601 or by email: worksafe@act.gov.au

You may then seek a review of an internal reviewer's decision in the ACT Civil and Administrative Tribunal (ACAT). Information about that process can be found at www.acat.act.gov.au.

The decision to issue this notice is also reviewable under the *Administrative Decisions (Judicial Review) Act 1989* on application to the ACT Supreme Court. Further, a person may make a complaint to the ACT Ombudsman about the issue of this notice.

WorkSafe ACT contact details

PO Box 158, Canberra ACT 2601

Email: [Worksafe @act.gov.au](mailto:Worksafe@act.gov.au)

Phone: (02) 6207 3000

Fax:(02) 6205 0336.

Translating and Interpreting Service

Phone: 131 450