



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 2020-041

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	N/A
6. Processing time (in working days)	19
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

To
FOI - Information Management Team
Environment Planning and Sustainable Development Directorate
GPO Box 158
CANBERRA ACT 2601

Date
17.02.2020

Subject
Request for Information

1

To Whom It May Concern

Lolita (ACT) No 1 Pty Ltd and Lolita (ACT) No 2 Pty Ltd as tenants in common are the Crown lessees of described as Block 11 & 12 Section 38 Fyshwick (Volume 1633 Folio 98 Edition 21). This is an application for access to information and is made pursuant to Part 5 Division 5.1 Section 30 of the *Freedom of Information Act 2016*.

Background

The Lessees are pursuing a Draft Variation to the Territory Plan (DVTP) for Blocks 11 & 12 Section 38 Fyshwick. A Planning Report has been prepared in support of the proposed plan variation. The Planning Report is supported by a number of studies and assessments. These included:

- the Fyshwick STP Odour Assessment; and
- the Dairy Road-Fyshwick STP Independent Expert Review.

The Fyshwick STP Odour Assessment was undertaken in accordance with the South Australian Guidelines which are the guidelines formally adopted by the ACT Government. The process was overseen by a Stakeholder Group convened by the Environment Planning and Sustainable Development Directorate (EPSDD). The Stakeholder Group included representatives of EPSDD, Environment Protection Authority (EPA), Icon Water and Molonglo.

It is understood that Icon Water is also identified by EPSDD as a referral authority for the proposed Draft Variation to the Territory Plan for Block 11 & 12 Section 38 Fyshwick.

Request for Information

The information requested includes:

All records of communications and exchanges between any representatives of any of the three parties being the EPSDD, the EPA and Icon Water relating to:

- The Fyshwick STP Odour Assessment;
- The Dairy Road-Fyshwick STP Independent Expert Review; and
- A proposed Draft Variation to the Territory Plan for Blocks 11&12 Section 38 Fyshwick

The records of communication and exchanges requested include::

- Reports;
- Letters;
- Minutes;
- Memorandum;
- Briefing papers;
- Advice;
- Comments;
- Circulation comments;
- Emails;



- File notes;
- Meeting notes;
- Records of conversation; and
- Post-it notes.

Notices



Your earliest possible response is requested.

Yours sincerely





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2020-041



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 28 February 2020 in which you sought access Molonglo requested access to documents pertaining the communications and exchanges between any representatives of any of the three parties being the EPSDD, the EPA and Icon Water relating to:

- The Fyshwick STP Odour Assessment;
- The Dairy Road-Fyshwick STP Independent Expert Review; and
- A proposed Draft Variation to the Territory Plan for Blocks 11 & 12 Section 38 Fyshwick

On 24 March 2020 you affirmed that the scope of your request is as per your original scope being:

*“All records of communications and exchanges between any representatives of any of the three parties being the EPSDD, the EPA and Icon Water from the period **April 2012 to the present** relating to:*

- *The Fyshwick STP Odour Assessments;*
- *The Dairy Road-Fyshwick STP Independent Expert Review; and*
- *A proposed Draft Variation to the Territory Plan for Blocks 11&12 Section 38 Fyshwick*

The records of communication and exchanges requested include:

Reports; Annotations to reports; Letters; Minutes; Memorandum; Briefing papers; Advice; Comments; Circulation comments; Emails; File notes; Meeting notes; Records of conversation; and Post-it notes.”

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 of section 40 of the Act, CMTEDD is required to provide a decision on your access application by 30 March 2020.

Decision on access

Searches were completed for relevant documents and one document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant document. This provides a description of that document that falls within the scope of your request and the access decision for that document.

I have decided to grant full access to the relevant document. The document released to you is provided as **Attachment B** to this letter.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are applicable for this request because the total 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 the document released to you in response to your access application will be published in the CMTEDD disclosure log 3 days after the date of my decision. Your personal contact details will not be published. You may view the CMTEDD disclosure log at:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

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,



Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

27 March 2020



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
<p>All records of communications and exchanges between any representatives of any of the three parties being the EPSDD, the EPA and Icon Water from the period April 2012 to the present relating to:</p> <ul style="list-style-type: none"> • The Fyshwick STP Odour Assessments; • The Dairy Road-Fyshwick STP Independent Expert Review; and • A proposed Draft Variation to the Territory Plan for Blocks 11&12 Section 38 Fyshwick 	CMTEDDFOI2020-041

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-4	EPA response to Planning Report for Fyshwick Section 38 Blocks 11 and 12		Full release	N/A	Yes
Total No of Docs						
1						

From: EPAPlanningLiaison
Sent: Thursday, 26 March 2020 5:27 PM
To: Sargent, Narelle
Subject: FW: Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site) - agency circulation for comment [DLM=For-Official-Use-Only]

UNCLASSIFIED For-Official-Use-Only

Out of Scope

From: Sargent, Narelle <Narelle.Sargent@act.gov.au>
Sent: Thursday, 16 January 2020 6:07 PM
To: Terrplan <Terrplan@act.gov.au>
Cc: EPAPlanningLiaison <EPAPlanningLiaison@act.gov.au>; Heckenberg, Mark <Mark.Heckenberg@act.gov.au>
Subject: Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site) - agency circulation for comment [DLM=For-Official-Use-Only]

Territory Plan Unit,

The Environment Protection Authority (EPA) has reviewed the revised planning report to inform a draft variation to the Territory Plan for **Blocks 11 & 12 Section 38 Fyshwick**, for the proposal to rezone the site from IZ1 General Industry to CZ3 Services Zone to allow for a range of future developments including the provision of multi-unit housing, non-retail commercial uses, mixed use (retail, cafes, restaurants etc) and some community facilities and services.

It is noted that the block is bounded by industrial zoned land to the south, west and east and by a waste water treatment plant to the north.

The planning report and supporting documentation have failed to demonstrate to the satisfaction of the EPA that the site is suitable or required for residential and other sensitive uses and have not adequately addressed the impacts on the surrounding existing and permitted uses should the development proceed. The report overly relies on future industrial lease variation/s and other development proposals in the surrounding area to demonstrate compatibility with sensitive land uses on the subject site. The purpose of the previously recommended "*detailed consideration of permitted uses in nearby industrial zoned land*" is to ensure the consequences/implications on the Fyshwick industrial area and the sewerage treatment plant are comprehensively understood. The supporting documentation also fails to adequately explain how existing activities on the subject site will be able to co-exist with future sensitive land uses.

Further, an environmental assessment of the site in accordance with the EPA's endorsed guidelines undertaken by a suitably qualified environmental consultant to determine whether past activities have impacted the site from a contamination perspective to determine if the site is suitable for the proposed and permitted uses has not been undertaken. This assessment must include a review of all prior contaminated land assessments undertaken at the site.

The findings of the assessment and remedial works must be independently audited by an EPA approved contaminated land auditor and the findings of the audit into the suitability of the site for its proposed uses endorsed by the EPA prior to the Territory Plan being varied.

For further information please contact Robin Brown, the Environment Protection Authority Planning Liaison, at EPAPlanningLiaison@act.gov.au or on 6207 5642.

Yours sincerely
Narelle Sargent

Narelle Sargent | the *Environment Protection Authority*
Office of the Environment Protection Authority (EPA)
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT
Phone: 02 6207 5782 | Mobile 0466 510 033 | Email: narelle.sargent@act.gov.au
470 Northbourne Avenue, Dickson | GPO Box 158 Canberra ACT 2601 | www.act.gov.au/accessCBR



From: Sargent, Narelle
Sent: Tuesday, 7 January 2020 1:06 PM
To: Brown, Robin <Robin.Brown@act.gov.au>; EPAPanningLiaison <EPAPanningLiaison@act.gov.au>
Cc: Power, David <DAVID.POWER@act.gov.au>
Subject: FW: Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site) - agency circulation for comment [DLM=For-Official-Use-Only]
Importance: High

Hi Robin
Following up on this one – EPSDD have just been on the phone about them

Narelle

From: EPAPanningLiaison
Sent: Monday, 16 December 2019 8:09 AM
To: Heckenberg, Mark <Mark.Heckenberg@act.gov.au>; Dix, Rodney <Rodney.Dix@act.gov.au>; Power, David <DAVID.POWER@act.gov.au>
Cc: Sargent, Narelle <Narelle.Sargent@act.gov.au>
Subject: FW: Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site) - agency circulation for comment [DLM=For-Official-Use-Only]

TPV	Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site)
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Comments please 17.12.2019

Regards,

Robin Brown | Environment Protection Authority Planning Liaison

Phone 02 6207 5642

Environmental Quality | Office of the Environment Protection Authority | Access Canberra | **ACT Government**
470 Northbourne Ave Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601 | www.environment.act.gov.au

From: Terrplan
Sent: Thursday, 12 December 2019 2:47 PM
To: Dickson, Kirilly <Kirilly.Dickson@act.gov.au>; Paynter, Patrick <Patrick.Paynter@act.gov.au>; EPD Strategic Planning Referrals <EPDStrategicPlanningReferrals@act.gov.au>; Morris, VanessaX <VanessaX.Morris@act.gov.au>;

McDonald, Helen <Helen.McDonald@act.gov.au>; Azzopardi, Adam <Adam.Azzopardi@act.gov.au>; Jurcevic, Suzanne <Suzanne.Jurcevic@act.gov.au>; ConservatorFloraFauna <ConservatorFloraFauna@act.gov.au>; Heritage <Heritage@act.gov.au>; Durie, Lea <Lea.Durie@act.gov.au>; Mundy, Graham <Graham.Mundy@act.gov.au>; Cilliers, George <George.Cilliers@act.gov.au>; Saad, Monica <Monica.Saad@act.gov.au>; Deedman <Deedman@act.gov.au>; ACTPLA DA Leasing <ACTPLADALEasing@act.gov.au>; Teasdale, Jonathan <Jonathan.Teasdale@act.gov.au>; Wilson, Stephanie <Stephanie.Wilson@act.gov.au>; EPSDLegalServices <EPSDLegalServices@act.gov.au>; Marshall, Guenivere <Guenivere.Marshall@act.gov.au>; Oswald, Petra <Petra.Oswald@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>; CMTEDD, Economic Development <ecodev@act.gov.au>; EPAPanningLiaison <EPAPanningLiaison@act.gov.au>; Johns, Peter <Peter.Johns@act.gov.au>; O'Brien, Freya <Freya.O'Brien@act.gov.au>; EDU, School Planning <EDUSchoolPlanning@act.gov.au>; ACT Health StrategicInfrastructure <ACTHealthStrategicInfrastructure@act.gov.au>; ACTHealthCorporate&Governance <ACTHealthCorporate&G@act.gov.au>; EmergencyManagement <EmergencyManagement@act.gov.au>; lucy.mossop@afp.gov.au; WorksApproval <WorksApproval@nca.gov.au>; Joseph, Gabriel <Gabriel.Joseph@act.gov.au>; TCCS_PlaceCoord <TCCS.PlaceCoord@act.gov.au>; Network Connection Advice <Network.ConnectionAdvice@evoenergy.com.au>; Dahal, Nabin <Nabin.Dahal@iconwater.com.au>; steve.donnely@jemen.com.au; kedar.vedanti@evoenergy.com.au; Dillon, Amelia <Amelia.Dillon@act.gov.au>; Iglesias, Daniel <Daniel.Iglesias@act.gov.au>; Walters, Daniel <Daniel.WALTERS@act.gov.au>; Cityrenewal <cityrenewal@act.gov.au>

Cc: Terrplan <Terrplan@act.gov.au>; Kaucz, Alix <Alix.Kaucz@act.gov.au>; O'Neill, Carolyn <Carolyn.O'Neill@act.gov.au>; Buckley, Jackelyn <Jackelyn.Buckley@act.gov.au>; Cousins, Meagan <Meagan.Cousins@act.gov.au>; Moore, AlisonM (ACTPLA) <AlisonM.Moore@act.gov.au>; Gianakis, Steven <Steven.Gianakis@act.gov.au>; Finlay, Jennifer <Jennifer.Finlay@act.gov.au>; Neilsen, Andrew <Andrew.Neilsen@act.gov.au>; Richardson, Dave <Dave.Richardson@act.gov.au>; Sendaba, Bethel <Bethel.Sendaba@act.gov.au>; Luchetti, Christine <Christine.Luchetti@act.gov.au>; OConnell, Jennifer <Jennifer.OConnell@act.gov.au>; Russell, Meaghan <Meaghan.Russell@act.gov.au>; Phillips, Brett <Brett.Phillips@act.gov.au>; Edgar, Olivia <Olivia.Edgar@act.gov.au>; Billing, Dale <Dale.Billing@act.gov.au>; Cargill, James <James.Cargill@act.gov.au>; Myers, Rhonda <Rhonda.Myers@act.gov.au>; McGlynn, Gene <Gene.McGlynn@act.gov.au>; Gordon, Tom <Tom.Gordon@act.gov.au>; Dolejsi, Simon <Simon.Dolejsi@act.gov.au>; Jeffrey, David <David.Jeffrey@act.gov.au>; Sargent, Narelle <Narelle.Sargent@act.gov.au>; Brown, Robin <Robin.Brown@act.gov.au>; Jones, David <David.Jones@act.gov.au>; Chadwick, Graham <Graham.Chadwick@act.gov.au>; rebecca.sorensen@nca.gov.au; McGlynn, Gene <Gene.McGlynn@act.gov.au>; Saunders, Cathryn <Cathryn.Saunders@act.gov.au>; Dunn, Maggie <Maggie.Dunn@act.gov.au>; Bell, Jeff <Jeff.Bell@act.gov.au>; Uddin, Kamal <Kamal.Uddin@act.gov.au>; Pillig, Carl <Carl.Pillig@act.gov.au>; Percival, Tom <Tom.Percival@act.gov.au>; kawser.jamil@iconwater.com.au; Moser, Sonya <Sonya.Moser@act.gov.au>

Subject: Planning Report for Fyshwick Section 38 Blocks 11 and 12 (Diary Road site) - agency circulation for comment [DLM=For-Official-Use-Only]

Fyshwick Section 38 Blocks 11 and 12 (Dairy Road site) – Planning Report 2019

Your comments are requested on the planning report to inform a draft variation to the Territory Plan for **Blocks 11 & 12 Section 38 Fyshwick**. The proposal is to rezone the site from IZ1 General Industry to CZ3 Services Zone to allow for a range of future developments including the provision of multi-unit housing, non-retail commercial uses, mixed use (retail, cafes, restaurants etc) and some community facilities and services.

The planning report has been revised from the 2018 planning report to address issues that were raised. The background and history of this site and justification for redevelopment are provided in the planning report. A summary table (Summary Table – Resolution of Identified Potential Impacts) is provided at the end of the covering letter (191206 Revised Planning Report Cover Letter)

The revised planning report (191206 Revised Planning Report) for the Dairy Road site and appendices are available on Objective Connect. You will receive an invitation shortly from **Objective Connect** to access the documents.

Please provide comments (including nil comment) by **COB 24 January 2020**. Comments can be sent to terrplan@act.gov.au

Many thanks.

Regards

Territory Plan Section | General Enquiries Inbox

Email: terrplan@act.gov.au

Planning, Land and Building | Environment, Planning and Sustainable Development Directorate | ACT Government

Dame Pattie Menzies House, 16 Challis Street, Dickson | GPO Box 158 Canberra ACT 2601 | www.act.gov.au