
From: [REDACTED]
Sent: Monday, 6 April 2020 3:39 PM
To: EPSDFOI
Subject: Request for Information - 1 Dairy Road Fyshwick - Odour Assessment and Draft Plan Variation

Categories: Jodi

Freedom of Information Officer
Information and Knowledge Management
Environment Planning and Sustainable Development Directorate

Application for Information

This application for information is submitted pursuant to the *Freedom of Information Act 2016* and seeks all records of communications between any representatives of any of three parties being the EPSDD, the EPA and Icon water relating to:

- Assessments of the potential air quality and odour impacts on Blocks 11 & 12 Section 38 Fyshwick from the Fyshwick Sewage Treatment Plant (STP);
- the Dairy Road-Fyshwick STP Independent Expert Review; and
- a proposed Draft Variation to the Territory Plan for Blocks 11 & 12 Section 38 Fyshwick.

Background

The progressing of a Draft Variation to the Territory Plan for Blocks 11 & 12 Section 38 Fyshwick (1 Dairy Road) and the potential air quality impacts from the Fyshwick STP have been inextricably linked since February 2012. The Site sits within an area first identified by the ACT Government's Spatial Plan in 2004 as being part of the East Lake Urban Redevelopment Area. In December 2011, Molonglo prepared a Planning Report on the "Fyshwick Eco-Village Master Plan". The Planning Report described how the Dairy Road could be redeveloped in a manner consistent with the ACT Government's planning objectives for East Lake. A Draft Variation to the Territory Plan was proposed in order to progress the initiative. At a meeting of 16 February 2012, EPSDD advised that progressing the Draft Variation was dependent upon resolving the potential impacts of odours from the Fyshwick Sewage Treatment plan (STP).

2012-2017

Over the period April 2012 to 2016 studies were commissioned by Molonglo to address the potential STP impacts. These were dismissed without any clear statement of reasons why. In March 2013 Molonglo was advised that the then Chief Minister had decided to seek independent expert review of the potential impacts. However, no further response or advice was provided on whether such a study had been undertaken. In November 2014 the EPA released Draft Separation Guidelines for Airborne Emissions calling for comments by 16 December 2014. The Draft Guidelines relied heavily upon physical separation of uses (buffer zones). In its detailed submission Molonglo pointed out that buffer zones were used nationally only as a Tier 1 approach and that best practice required a detailed assessment based upon dispersion modelling. There was no response to this submission.

On 28 September 2016 a revised planning report and technical studies, including the odour studies, were submitted seeking a Draft Variation to the Territory Plan. In May 2017, EPSDD advised that EPA/Icon Water opposed the Draft Variation with continued reliance upon separation through buffer zones as presented in the Draft Separation Guidelines. No formal statement of reasons was given as to why this position was adopted by EPA and Icon Water.

It was incumbent upon Molonglo itself to point out that the Draft Separation Guidelines and the 2016 South Australian EPA Policy formally adopted by the ACT both advocated an individual site specific odour assessment. It was contradictory of EPA and Icon Water to formally adopt Guidelines and Policies and then eschew the process advocated by those documents. Such contradiction was never explained.

2017- 2020

Finally on 15 November 2017, EPSDD agreed to the establishment of a Stakeholder Group convened and chaired by EPSDD with representation by EPA, Icon Water and Molonglo to oversee the odour assessment process. The EPSDD convened Stakeholder Group's role included:

- Agreeing the brief for the primary air quality consultant including scope, methodology and modelling;
- Agreeing the brief for the Independent Expert Reviewer (auditor) and
- Reviewing the assessment results at each stage of the process and the auditor's report.

The scope of the odour assessment process was formally endorsed by the Director-General EPSDD on 27 February 2018. After exhaustive study, analysis and additional field studies and modelling the final odour assessment reports, including the Independent Expert Reviewer's (IER) report, were submitted to the Stakeholder Group on 4 September 2019. The IER report concluded that with a commercial only buffer along the Dairy Road frontage "*a redevelopment of Dairy Road including residential land uses can co-exist with the existing Fyshwick STP operations without odour related land use conflict*". These reports, together with the proposed land use restrictions, were formally submitted as part of the final Planning Report on 6 December 2019.

In a letter of 5 March 2020, the Director-General EPSDD advised that EPSDD could not support the proposal as outlined in large part because "*Icon water, Evo Energy and the EPA continue to raise significant outstanding issues relating to odour*". This was provided as a statement of reasons without any further elaboration. On 23 March 2020, you confirmed that EPA advised you that "*they do not hold any documents that will explain why the (matter) is not proceeding*". The advice provided to you by the EPA would appear to contradict the most recent advice from EPSDD.

Scope of Requested Information

Since we commenced the process to seek a Territory Plan Variation in 2012 the potential odour impacts have proven to be the fundamental obstacle and still proves to be so. We have encountered resistance to the undertaking of a site specific odour assessment despite the fact that the ACT's own adopted guidelines and policies call for such a study. Now that such a study has been undertaken in accordance with the adopted policy and guidelines and via an EPSDD endorsed process, overseen by a Stakeholder Group which included EPA and Icon and which was subject to independent expert review it has now apparently been rejected. We cannot imagine that on every occasion the reports have simply been arbitrarily rejected. It is to establish the decision making process undertaken and the underlying rationale for dismissal of the previous assessments that we have had to have recourse to the FOI Act.

Advice from EPSDDFOI of 6 April 2020 confirmed that a separate request for information is being progressed for relevant information in the period 5 March 2013 to 17 February 2020 and that a separate request is required for other periods. Accordingly, this application seeks 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 periods **April 2012 to 4 March 2013 inclusive and 18 February 2020 to the 23 March 2020 inclusive** 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.

