



ACT
Government

Environment, Planning and
Sustainable Development

Phone: 6207 1923
Reference: 19/34646

Dear [REDACTED]

Freedom of Information - 19/34646 Asbestos disposal from Red Hill Precinct demolition

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received through partial transfer from the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) to the Environment, Planning and Sustainable Development Directorate (EPSDD) on 4 November 2019, in which you sought access to the end location and quantity of asbestos contaminated waste from the demolition site for the Red Hill Housing Precinct.

As advised, your application was partially transferred to Transport Canberra and City Services Directorate (TCCS). CMTEDD, TCCS and EPSDD will each respond to your application with documents they hold.

Specifically, you are seeking:

“ the disposal details relating to asbestos and asbestos-contaminated waste removed from the construction site at the Red Hill Precinct during the demolition phase. This would include records relating to the end location of this waste and the volume (in tonnes) disposed of at this location.”

I am an Information Officer appointed under section 18 of the Act to deal with access applications made under Part 5 of the Act.

As third-party consultation was undertaken, EPSDD is required to make a decision on your access application on or by 23 December 2019 in accordance with section 40(2)(a) of the Act.

Decision on access

Comprehensive searches were conducted for documents relevant to your application and two documents were located.

I have included as **Attachment A** to this decision the schedule of relevant documents and my access decision for each.

I have decided to release the parts of the first document that fall within the scope of your request and exclude the remainder of the report for the reasons set out in the schedule of documents attached and as explained in my statement of reasons below. Scheduled item 2 is the addendum to the report however it has been excluded from my considerations as it contains no information relevant to your request.

The Schedule item 1 contains personal information that I consider to be contrary to the public interest to disclose and I have decided, under section 17 of the Act, to apply further deletions to exclude this information from release.

Third-party consultation was undertaken with Arcadis P/L who did not raise any objections to release of the parts of the document relevant to your application.

The document released to you is provided as **Attachment B** to this letter.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act, particularly sections 17, 38, 50 and Schedule 2 of the Act
- the content of the documents that fall within the scope of your request
- the views of the relevant third party, and
- the *Human Rights Act 2004*.

Public interest considerations

My reason for deciding not to grant access to the components of the document is as follows:

Information Disclosure – Contrary to the public interest under Schedule 2 of the Act

The Act recognises the right of every person to obtain access, under its provisions, to government information (section 7, the Act). As an Information Officer, I am required to allow access to information subject to the Act unless, on balance, disclosure would be contrary to the public interest.

In assessing the public interest, I must apply the test set out by section 17 of the Act which requires consideration of factors favoring disclosure, any factors favoring nondisclosure and the balance of those factors when considered cumulatively.

Personal Information

Scheduled item 1 contains personal information (contact details and signatures) of individuals. I have considered the release of the personal information contained within the documents, and my view in this instance is to exclude the personal information as it is not expected to further open discussion, government accountability, informed debate or the provision of contextual or background information.

I am satisfied that the disclosure of identified personal information could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*; this is a factor favoring nondisclosure under Schedule 2.2(a)(ii) of the Act.

On balance of these factors, I have decided to exclude the personal information from release.

Charges

I have decided to waive fees associated with this application as the disposal of Asbestos Contaminated Waste is a public issue that concerns the Canberra Community and therefore the public may benefit from the release of this information.

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your access application, my decision and the document released to you in response to your access application will be published on the EPSDD disclosure log between 3 and 10 days after you are provided this decision. Your personal information will not be published.

You may view the EPSDD disclosure log at:

<https://www.environment.act.gov.au/about/access-government-information/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 the disclosure log, or a longer period as allowed by the Ombudsman. For more information and the application form for Ombudsman review, please visit:

http://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/40A-Reviews-Factsheet-and-Application-Form-final-A1569634.pdf

If you wish to request a review of my decision 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/>

Further Information

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact EPSDD Customer Service on 02 6207 1923 and ask for the FOI team, or email EPSDFOI@act.gov.au

Yours sincerely



Bruce Fitzgerald

Information Officer

Environment, Planning and Sustainable Development Directorate

20 December 2019