



ACT
Government

Environment, Planning and
Sustainable Development

Phone: (02) 6207 1923
Reference: 23/038119

[REDACTED]

By Email: [REDACTED]

Dear [REDACTED]

Decision on Freedom of Information Access Application 23/038119

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act) received by the Environment, Planning and Sustainable Development Directorate (EPSDD) on 5 April 2023 via a partial transfer from the Chief Minister, Treasury and Economic Development Directorate.

Specifically, you sought access to the documents that provide answers to the following questions:

“The following requests relate to the Office of the Commissioner for Sustainability and the Environment's Wood Heaters Report. It relates to information held by several agencies including: Office of the Commissioner for Sustainability and the Environment ACT Health Directorate Chief Minister, Treasury and Economic Development Directorate Access Canberra

Pg 4 of the Wood Heaters Report says that woodheaters and controlled burns were responsible for 403 air pollution complaints for 2017/18 and 2018-19. How many complaints specifically only related to woodheater smoke and not controlled burns? How many complaints related to each geographic district or suburb in Canberra? Please provide emails and written correspondence from the ACT Health Directorate to the as it relates to Air Quality Monitoring and Office of the Commissioner for Sustainability and the Environment. Please provide emails and written correspondence from the Environment, Planning and Sustainable Development Directorate to Office of the Commissioner for Sustainability and the Environment on air quality assessments, building policy and regulation for wood heater installations. Please provide emails and written correspondence from the Chief Minister, Treasury and Economic Development Directorate (EPA) to Office of the Commissioner for Sustainability and the Environment on regulation of wood heater smoke and odour, firewood merchant regulation, and annual reporting.

Pg 11 of the Wood Heater Report only shows data on the Monash Monitoring station. Can the ACT Health Directorate please provide the same graphs and data (ie figure 2 and 3) for the Civic and Florey monitoring stations for same period.

Pg 14 of the Wood Heater Report discusses general information on firewood. ACT Firewood merchants are required to report on firewood. via the following access Canberra form. Please provide emails and correspondence between Office of the Commissioner for Sustainability and the Environment and any ACT Government agency on firewood, and in particular the species and location of firewood, and whether it was from a plantation, non-plantation or salvaged.

<https://files.accesscanberra.act.gov.au/legacy/4335/Annual%20firewood%20report.pdf>

Pg 15 refers to a newspaper report on gathering firewood. Please provide emails and correspondence between Office of the Commissioner for Sustainability and the Environment and any ACT Government agency on illegal collection of firewood. How many instances of illegal collection of firewood have been prosecuted in the last 5 years? How many penalties have been issued in the same period?

Pg 20 Fig 4 refers to Flow chart showing the steps that an EPA will take to determine if environmental harm is being caused by wood smoke. How many infringement notices have been issued in the last 5 years? In which geographic districts or suburbs in Canberra did infringement notices occur? How many instances of education and warnings occurred in the same period? In which geographic districts or suburbs in Canberra did instances of education and warnings notices occur?

On Pg 21 there is reference to the EPA has emailing information to wood merchants operating in the ACT, informing them of the requirement to ensure that only well-seasoned wood be sold. Unseasoned wood is defined as containing more than 20 per cent moisture. In their compliance activities, how many instances has the EPA found where firewood was not well-seasoned?

Pg 22 summarises the Air Environment Protection Policy was created to provide supplementary information and policies relating to the management of ambient air quality and pollutant emissions in the ACT. What evidence has been provided by relevant Policy owner to the Office of the Commissioner for Sustainability and the Environment regarding the effectiveness of this policy?

Pg 23 discusses the Burn Right Tonight program. Please provide emails and correspondence between Office of the Commissioner for Sustainability and the Environment on the reach and effectiveness of the campaign and the program generally.

Pg 28 Please provide the draft OCSE draft Investigation report 30/11/2022 and the EPSSD response to OCSE draft Investigation report 30/11/2022.

Pg 30 I believe the proposed inclusion of the healthy environment right within the ACT's Human Rights Act has implications for the continued installation of and continued use of gas stoves and gas appliances, which are known to cause environmental harm. In view of the commentry offered by the Office of the Commissioner for Sustainability and the Environment, does the Office of the Commissioner for Sustainability and the Environment have information or evidence or advice that distinguishes wood heaters from gas stoves and gas appliances used within homes noting that these appliances impact Asthma in children and emit significant PM2.5 particles.

Pg 32 sets out the recommendations Please provide emails and correspondence between Commissioner for Sustainability and the Environment and: - Environment, Planning and Sustainable Development Directorate - Chief Minister, Treasury and Economic Development Directorate - ACT Health Directorate as they relate to the draft recommendations and final recommendations of the Wood Heater Report.”

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

EPSDD must decide your application on or by 2 June 2023.

Decision on Access

Searches were conducted for relevant information maintained by EPSDD and the Commissioner for Sustainability and the Environment. Two documents containing information within the scope of your application were identified. I have decided to grant full access to these documents. A third document was created for the purpose of answering some of the questions in your application. Responses to many of your questions were addressed by the Chief Minister, Treasury and Economic Development Directorate in its decision at https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0008/2217338/2023-106.pdf. I understand that ACT Health has also accepted a partial transfer of your application. I have not included documents created by these Directorates.

I have provided a schedule of the relevant documents at **Attachment A**, and the relevant documents have been released to you as **Attachment B**.

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 decision, I have taken the following into account:

- the FOI Act, particularly sections 6, 17, 43, 45, and Schedule 2
- the content of the documents that fall within the scope of your application
- the *Human Rights Act 2004*
- the Ombudsman’s FOI guidelines
- information publicly available.

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2.

Information Disclosure – Schedule 2 of the Act

The Act recognises the right of every person to obtain access, under its provisions, to government information (see 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 outlined under section 17 of the Act which requires consideration of factors favouring disclosure, any favouring nondisclosure and the balance of those factors when considered cumulatively.

Factors Favouring Disclosure

In applying the public interest test, I have determined that disclosure of the information could reasonably be expected to do the following:

- Schedule 2, 2.1(a)(i) – promote open discussion of public affairs and enhance the government’s accountability
- Schedule 2, 2.1(a)(ii) – contribute to positive and informed debate on important issues or matters of public interest
- Schedule 2, 2.1(a)(viii) – reveal the reason for a government decision and any background or contextual information that informed the decision.

I have placed substantial weight on the above factors favouring disclosure. The work undertaken by government regarding compliance of people using wood heaters and burning firewood impact the Canberra community and surrounding environment. The release of this information can reasonably be expected to inform the community about government operations and provide context.

Factors favouring Nondisclosure

I did not identify any factor favouring nondisclosure and have decided to release this information to you in full.

Charges

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

Online Publication

Under section 28 of the Act, EPSDD maintains an online record of access applications called a disclosure log. Your original access application, this decision and documents released will be published in the EPSDD disclosure log no earlier than three days after you receive this decision. Your personal contact details will not be published.

You may view the EPSDD disclosure log at

<https://www.environment.act.gov.au/about-us/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 allowed by the Ombudsman. For more information and the application form for Ombudsman review, please visit:

https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

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

Allara House

15 Constitution Avenue

GPO Box 370

CANBERRA CITY ACT 2601

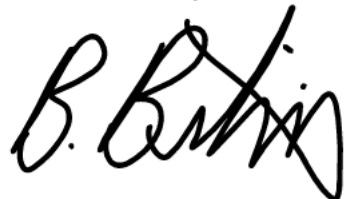
Telephone: (02) 6207 1740

<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 to EPSDFOI@act.gov.au.

Yours sincerely



Bren Burkevics

Information Officer

Executive Group Manager, Environment, Heritage and Water

2 June 2023