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Ombudsman
Tasmania



RIGHT TO INFORMATION ACT 2009 APPLICATION FOR REVIEW

File number:

1. Details of Person Making Application

Title	First Name	Surname	
MR.	CLIVE	STOTT	
Address		Suburb	Post Code

Telephone (business hours)	Mobile	Email Address
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Do you have a disability or other special needs?

Yes No If yes, please specify:

What is your preferred language?

ENGLISH

Do you require an interpreter?

Yes No

2. Details of Public Authority or Minister

Name of the Public Authority or Minister to which this application refers:

DEPARTMENT OF PRIMARY INDUSTRY, PARKS, WATER & ENVIRONMENT (DPIPWE)

GPO BOX 44	HOBART	7001
Address	Suburb	Post Code

1300 368 550

Telephone (business hours)	Division
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3. Application Details

Grounds upon which the application for review is made:

(Note – the grounds upon which an application for review may be made are indicated in sections 44(1), 45 and 46(1) of the Right to Information Act 2009.)

THE DECISION WAS NOT MADE WITHIN THE TERMS OF THE ACT; i.e. 20 WORKING DAYS.
THE DECISION WAS MADE BY A PRINCIPAL OFFICER.

Date of Application for Assessed Disclosure:

Has an initial decision been made by the public authority or Minister in relation to the application for assessed disclosure?

Yes No **If yes, when did you apply?** 11-4-2014

Have you applied for internal review of the initial decision?

(Note – In some cases it is necessary to apply for internal review under section 43 of the Act before you have the right to seek review by the Ombudsman, please see attached explanatory note)

Yes No

4. Attachments

Please attach a copy of the following documents:

(Note – tick the box to indicate if the document is attached)

- | | | | | |
|-------------------------------------|-----|-------------------------------------|----|---|
| <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | Your application for assessed disclosure |
| <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | Any initial decision made by the public authority or Minister in relation to the application |
| <input type="checkbox"/> | Yes | <input checked="" type="checkbox"/> | No | Any internal review decision |
| <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No | All correspondence you have had with the public authority or Minister in relation to the matter |

5. Privacy Statement

If you make an application for review to the Ombudsman under the *Right to Information Act 2009*, the Ombudsman will collect your personal information. Personal information will be used in the handling of the review, and may be disclosed to the public authority or Minister which is respondent to the application, to enable the review to be undertaken. Personal information will be managed in accordance with the *Personal Information Protection Act 2004* and, on request to the Ombudsman, may be accessed by the individual to whom it relates.

6. Signature

Signature of applicant:

Date:

23/5/2014

For assistance in completing this form, please phone this office on 1800 001 170.
Send this form to: Office of the Ombudsman, GPO Box 960, HOBART, Tasmania 7001.
Email this form to ombudsman@ombudsman.tas.gov.au or fax it to 03 6233 8966.

The Office of the Ombudsman is located on the Ground Floor at 99 Bathurst Street, Hobart.

25th May 2014

Ombudsman Tasmania
GPO Box 960
Hobart
Tasmania 7001
ombudsman@ombudsman.tas.gov.au

Dear Sir,

Review: RTI Decision in relation to Air Quality Monitoring

I am writing to ask for a Review ([attachment 5](#)) of an Assessed Disclosure Decision by the Department of Primary Industries, Parks, Water and Environment (DPIPWE) - RTI-029

My Application for Assessed Disclosure was clear and concise. ([attachment 1](#)). It was emailed in the first instance to the EPA. The EPA asked me to apply formally to DPIPWE and although it shows the date as the 13th April my application was emailed to them on the 11th April 2014. It was acknowledged by email on the 16th April.

I telephoned the DPIPWE, RTI department on the 8th May to find out what was happening. I was told the Decision was not due until the 20th May. No reasons were given for the extended time but this became apparent later.

On the 20th May I telephoned the department again to find out what was happening and was told I would not receive the Decision before Friday 23rd, or the following week. I confirmed my conversation with the Delegated RTI Officer by way of letter on the 21st; ([attachment 2](#)) and asked again could the date be brought forward at all; and was told I would receive it by close of business on the 23rd May. This is when it arrived.

Already the DPIWE was in breach of the release date. The delegated RTI Officer acknowledges she made a mistake counting up twenty working days as per the Act for the Decision, and then there was the signature 'late Friday dump on the applicant to ruin his weekend' which is highly predictable from a government department in Tasmania.

So it came as no surprise when in the Decision ([attachment 3](#)), the **Decision Summary** stated, "*...all of the information is exempt information.*"

I do not agree for the following reasons:

Information communicated by other jurisdictions:

How on earth could the release of air quality readings taken by Tasmanian EPA staff whilst in Morwell '*prejudice relations*' between the state of Victoria and Tasmania? It would not and could not, and this to my mind is just a fabricated story.

In the course of my RTI application I was never advised by the DPIPWE it would need to consult with EPA Victoria prior to my information being released. They failed to do this. They had plenty of time, more than enough time, with the delayed Decision.

Tasmania fortunately had the ability and equipment to undertake real-time mobile air quality readings in around Morwell. This equipment was funded by Tasmanians and used to gather public (not secret) air quality data in the Morwell area at the time; just the same as it is used in Tasmania during high pollution events. The data from such major pollution events is published on the Tasmanian EPA website, it is not held secretly for months.

Air quality readings are not meant to be secret, or withheld for long periods of time from the public. The aim is to get the information 'out there' as fast as it can to inform the public and Health authorities.

EPA Victoria even geared itself up as fast as it could, to release real-time air quality data to the public on their website.

I do not accept that, "... its disclosure would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future."

Further, I base this also on the fact that air quality data had already been released to the public by Tasmanian EPA staff whilst in Victoria- see the story [here](#). Has that disclosure impaired the ability of a public authority to obtain similar information in the future? No of course not.

This real-time data was gathered back around the 24th of February 2014 and it has sat on someone's desk since then both here and in Victoria. It is irrelevant as far as my RTI application goes as to any delays by the Victorian government to release their information after all this time.

In relation to Section 34:

I can confidently say, after a long and cordial association with the Tasmanian EPA air quality section, that the release of this information will not harm relationships between Tasmania and Victoria. I cannot say the same for Victoria unless they are desperately trying to prevent the public having access to these air quality readings.

These are air quality readings that I deal with every day; nothing magical; not national secrets!

I think it should also be borne in mind that *relations could be prejudiced* here in Tasmania between the public and the DPIPW (EPA mainly) if this public information is not released when we too, right across northern Tasmania, were exposed to high levels of smoke from Victoria at the time.

The public has the right to know what air they are, and have been, breathing and within the shortest amount of time.

This is spelt out quite well in Tasmania and Victoria with our EPA real-time publicly-accessible air quality data on both websites. It is one of the roles of the EPA in both states to provide this information.

To clarify this further, the EPA has moved away from gravimetric type air quality instruments when they can because to condition, weigh, collect particulates, weigh, and recondition filter papers, it can take a couple of weeks to get a validated air quality reading.

Real-time readings are available, well, almost real-time.

Hence, it makes no sense not to release to me the real-time air quality data and information that was gathered from in and around Morwell by Tasmanian staff way back in late February this year.

Let us be clear in relation to the air quality data that was obtained relevant to the Morwell coal mine fire in Victoria by our Tasmanian EPA staff.

Similar raw data referred to in the Decision would have been streamed to the web in real-time if Victoria had had their air quality stations working and network in place to do it.

In Tasmania our same raw real-time data from temporary and permanent air monitoring stations is sent to the [EPA website](#) and also streamed to the [Health Department website](#) and the [Asthma Foundation website](#).

Why do we do this '*...if its disclosure does not contribute in any meaningful way to inform debate on the issues at hand*'? This Decision argument is baseless.

Unfortunately, Victoria could not do this monitoring at the time but this is not an argument now to prevent the real-time information gathered at the time by our EPA staff being released under RTI.

After years of dealing with our EPA and understanding air quality data; even having my own real-time digital particulate counter that gives ambient air quality readings similar to that which were gathered by our EPA staff at Morwell, it is wrong of the Principal Officer in his Decision to surmise, "*...disclosure would not contribute in any meaningful way to inform debate on the issue...*"

In fact, informed debate is being denied by not releasing this information in a timely manner, and three months is an excessive amount of time.

It is acknowledged in the Decision I requested, "***Air quality data and information gathered recently by Tasmanian EPA air staff in and around Morwell in Victoria.***"

It also states on page 2 under (b) (c) & (n) "*The information in question consists of air quality monitoring data relevant to the Morwell coal fire...*"; and "*It comprises raw data without any interpretative information...*"

In my request I used the words, "*...data and information...*"

Information pertaining to my request for "*...information...*" seems to have been dismissed totally on the grounds that it was, "*not therefore informative...*"

There was 'information' gathered beside the data in and around Morwell.

Our Tasmanian air specialists are too proficient not to have made associated notes or indexed the data, or made observations or recommendations. Just to have collected random data would have been meaningless.

I have requested their information be released along with the data.

Also on Page 2 of the Decision under (b) (c) & (n):

There are no constraints on making air quality information available to the public (**attachment 4**) and the Victorian Government is aware of this, so it is NOT, "*...therefore likely to prejudice relations between the Tasmanian and Victorian Governments...*"

The release of this information is NOT '*likely to prejudice*' anything.

In fact, EPA Victoria released to me the air quality data they gathered from their stations. This can be found at <http://cleanairtas.com/air-monitoring/hazelwood-exceedances30.4.14.pdf>

[The Tasmanian Air Quality Strategy](#) 2006 first objective states:

"Information and data gaps - covering monitoring and forecasting, air pollution potential mapping, sources of pollution and public access to air quality information."

As a result of the DPIPWE Right to Information Decision, I feel I have been denied access to air quality information.

Please do not hesitate to contact me if you require anything further.

Thank you for your time and I look forward to hearing from you.

Yours sincerely,

Clive M. Stott

Attachments:

- Attachment 1 Application for assessed disclosure
- Attachment 2 Letter from me to DPIPWE's Ms Bobbie O'Brien
- Attachment 3 DPIPWE's Decision.
- Attachment 4 Email to me from Hazelwood Inquiry
- Attachment 5 Application for Review