



Environment Protection Authority
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Ref:

Botten Levinson Lawyers
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ADELAIDE SA 5001

Dear

I refer to your application under the *Freedom of Information Act 1991* (the FOI Act) received by the Environment Protection Authority (EPA) on 18 November 2020, for access to:

1. All documents (including all letters, emails, reports, notes, file notes, diary notes, diary entries, memoranda, records of meetings or telephone discussions whether handwritten, printed or created, conveyed or stored in electronic form) between the Environment Protection Authority (or its solicitors) and Dr Ruth Keogh of FYFE Pty Ltd concerning Lot 101 Port Lincoln Boulevard Pasadena between 1 January 2018 and the date of this application.
2. A copy of the report undertaken by Dr Ruth Keogh of FYFE (April 2020) *Former Pasadena Landfill Site: Independent Review of Available Information and Provision of Expert Witness Advice* (Fyfe Ref: 80834-1).

On 7 December 2020, the EPA's Principal Officer, Mr Tony Circelli, advised you that he had determined that, pursuant to section 14A of the FOI Act, the due date to respond to your request of 18 December 2020 would be extended to 13 February 2021 due to the likelihood that consultation would be required with third parties (section 14A(1)(b)).

I apologise for the significant delay in processing your request and can confirm that the EPA has waived fees for processing your request.

Following a search of EPA records I have determined that 38 documents fall within the scope of your application and are listed in the attached document schedule.

Section 20(4) of the FOI Act provides that if it is practicable to give access to a copy of the document with exempt matter deleted, and it appears that the applicant would wish to be given such a copy, the agency must give access to a copy of the document to this limited extent. Therefore, I have determined to grant you partial access to documents 23, 28, 34, 35 and 37 and redacted the parts of those documents that I consider to be exempt.

Determination

The Environment Protection Authority determines to:

- Grant full access to 32 documents.
- Grant partial access to 5 documents as detailed in the attached document schedule.
- Refuse access to 1 document as detailed in the attached document schedule.

The reasons I have refused access to certain parts of documents are summarised in the attached schedule and explained in more detail below.

Clause 10 of Schedule 1 of the FOI Act, Documents subject to legal professional privilege

- (1) A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

Document 1 and 34 contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege. This information has subsequently been redacted.

Clause 6 of Schedule 1 of the FOI Act, Documents affecting personal affairs:

- (1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Document 23 and 28 contains matter concerning the personal affairs of a person. I consider the disclosure of this information to be unreasonable and consider that information to be exempt from release under clause 6(1) of Schedule 1 to the FOI Act. This information has subsequently been redacted.

Information out of scope of the FOI application

Documents 35 and 37 contain matters considered out of the scope of this FOI application. This information has subsequently been redacted.

Public interest factors considered

In making this determination I have also taken the following public interest factors into consideration:

- Pro-release of documents meets the objects of the FOI Act
- The documents provide insight into the regulatory operations and accountability of the EPA
- Information is of direct interest to the public
- Information that is already in the public domain via the EPA's Public Register

Right of appeal

If you are dissatisfied with this determination you are entitled to apply for an internal review in accordance with section 29 of the FOI Act. To make an internal review application, please either write a letter or send the attached form to the Chief Executive of the Environment Protection Authority, Mr Tony Circelli, within 30 (calendar) days after you receive this letter. Should you submit an application for an Internal Review, please include an application fee of \$37.50, or request a fee waiver.

In accordance with the requirement of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, may be published in the EPA's disclosure log. A copy of PC045 can be found at <https://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>.

Should you have any queries in relation to this determination please contact Mr Luciano Palumbo, Freedom of Information/Public Register Administrator on 8204 9128 or email luciano.palumbo@sa.gov.au.

Yours sincerely

Suzanne Behrendt

Accredited Freedom of Information Officer

General Manager People and Performance

Environment Protection Authority

Date: 12/3/21