



Environment Protection Authority

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EPA FOI-20-01

Hon Leon Bignell MP

Via email

mawson@parliament.sa.gov.au

Dear Mr Bignell

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 and amended on 26 November 2020, for access to:

1. *Documents that advised the current Minister regarding the holders of EPA license number 32682*
2. *Documents that relate to all work applications and approvals at Southern Waste ResourceCo's site at Tatachilla Road McLaren Vale, specifically:*
 - *The original application for an authorisation and any application to change their operating process, site details or plant and equipment and related approvals*
 - *Application for license renewal*
 - *Application for licence annual return*

On 8 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 19 December 2020 would be extended to 19 May 2021. Your application required searching through a large amount of information and consultation was required with third parties to seek views regarding the release of documents identified (section 14A(1)(a) and (b)).

On 3 August 2021, the EPA made a partial determination in relation to Documents 1 to 33 of 208 documents initially identified in relation to your request.

Following consultation with third parties, and upon further review of the remaining 175 documents initially discovered, I have determined that 25 of these are within the scope of your request. The 150 out of scope documents relate to works undertaken in accordance with licence requirements, rather than *changes*, as per the wording of dot point 1 of part 2 of your FOI request (above). This FOI determination is also made outside of the time provided under the extension of time and is therefore made under section 19(2a) of the FOI Act. I apologise for the time taken to review and respond to your request.

Section 20(4) of the FOI Act provides that if it is practicable to give access to a copy of a 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 various documents as listed in the attached document schedule, and redacted the remaining parts of those documents that I consider to be exempt.

Determination

In relation to Documents 34 to 58, the Environment Protection Authority determines to:

- Grant full access to 2 documents.
- Grant partial access to 23 documents.

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

Clause 7 of Schedule of the FOI Act, Documents affecting business affairs

(1) A document is an exempt document –

(c) if it contains matter –

- (i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and
- (ii) the disclosure of which—
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and
 - (B) would, on balance, be contrary to the public interest.

Documents 34, 35, 37 to 40, and 42 to 58 contain matter that relate to the business, professional, commercial or financial affairs of an agency or another person under clause 7(1)(c) of Schedule 1 of the FOI Act. I have determined that, on balance, disclosure of this information could reasonably be expected to have an adverse effect on those affairs. Public interest factors taken into account are described below. The exempt content of these documents and third party names and contact details have been redacted.

Public interest factors considered

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

Pro release

- Pro-release of documents meets the objects of the FOI Act.
- Documents relating to environmental issues are in the public interest.
- Documents relating to the regulation of licenced sites are in the public interest.
- Whether the documents provide insight into the regulatory operations and accountability of the EPA.
- What information is already in the public domain, such as details already available on the EPA's public register.

Against release

- The release of customer information and site details of the original locations of the waste being transported may have an adverse effect on the contractual relationship between Southern Waste Resourceco and its customers. The information is also considered to be of commercial value, which could be diminished if released. It is not in the public interest to release information which may have contractual or commercial value to either customers or Southern Waste Resourceco.
- The release of mobile phone numbers may have an adverse effect on current and former employees.

On balance, the reasoning against release for portions of documents outweighed the public interest factors for release.

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 \$38.25, or request a fee waiver.

In accordance with the requirements 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 Ms Kathleen Dean, Freedom of Information / Public Register Administrator on 8204 2113 or email epa.publicregister@sa.gov.au

Yours sincerely



Suzanne Behrendt
Accredited Freedom of Information Officer
General Manager People and Performance
Environment Protection Authority

Date: 5/10/21

