



**Environment Protection Authority**

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FOI-21-05

Mr Peter Malinauskas MP

Office of the Leader of the Opposition  
Mitchell Park SA 5043

via email:

[pamela.perre@parliament.sa.gov.au](mailto:pamela.perre@parliament.sa.gov.au)

Dear Mr Malinauskas

I refer to your Freedom of Information (FOI) application made pursuant to the *Freedom of Information Act 1991* (the FOI Act), dated 10 March 2021, for access to the following documents:

*All documents (including but not limited to physical, electronic, or written briefs, internal discussion papers, minutes, emails, diary entries and any other correspondence) in relation to increases to the waste levy”.*

*Timeline: between 25/03/2018 to 2/03/2021.*

*On 18 March 2021 the application was amended to:*

*Any incoming correspondence from organisations, individuals, businesses or councils requesting exemptions from the waste levy increase or opposing the waste levy increase.*

*Timeline: between 29/06/2018 to 1/03/2021.*

On 29 March 2021 you were advised that, pursuant to Section 14A of the FOI Act, the due date of 9 April 2021 would be extended to 7 May 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 Environment Protection Authority (EPA) has waived processing fees. This FOI determination is made outside of the time provided under the extension of time and is therefore made pursuant to section 19(2a) of the FOI Act.

Following a search of EPA records, 3 documents fall within the scope of your application. I have considered each of the documents and have made the following determination.

### **Determination**

I determined to:

- Grant full access to 1 document.
- Grant partial access to 2 documents

The reasons I have refused access to these documents is explained in more detail below.

### **Clause 7 of Schedule 1 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.

Document 3A captured as part of this FOI request contain matters that relate to the business and professional affairs of another person(s) under clause 7(1)(c) of Schedule 1 to 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 and prejudice the future supply of such information to the Government. Public interest factors taken into account are described below.

**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 1 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.

**Public interest factors considered**

In making this determination I have 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.
- Whether the documents provide insight into the regulatory operations and actions of the EPA.
- Particulars relating to this subject are already in the public domain.

Against release

- It is important to maintain frank and free information flow to government.
- The degree to which information is already in the public domain.
- Contains information concerning the personal affairs of a person which do not relate to the FOI request
- The information relates to a client's commercial affairs which could be of a competitive advantage to others.

On balance, I consider the public interest factors against releasing the documents outweigh those 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.

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 Mr Luciano Palumbo Freedom of Information / Public Register Administrator on (08) 8204 9128 or email [luciano.palumbo@sa.gov.au](mailto:luciano.palumbo@sa.gov.au).

Yours sincerely

  
 Suzanne Behrendt  
*Accredited Freedom of Information Officer*  
**GENERAL MANAGER PEOPLE & PERFORMANCE**  
**ENVIRONMENT PROTECTION AUTHORITY**

Date: 28 July 2021