



Environment Protection Authority
GPO Box 2607 Adelaide SA 5001
211 Victoria Square Adelaide SA 5000
T (08) 8204 2004
Country areas 1800 623 445

FOI-21-03
File Ref: 9378103

[REDACTED]
Iles Selley Lawyers
via email:

[REDACTED]
Dear [REDACTED]

I refer to your Freedom of Information (FOI) application made pursuant to the *Freedom of Information Act 1991* (the FOI Act), dated 25 February 2021, for access to the following documents:

All documents evidencing all communications between any officer or representative of the Environment Protection Authority with [REDACTED] regarding/ which make reference to: - Buckland Dry Creek; and/or - Section XC2E; and/or - [REDACTED] and/or - Licence No. 40942; and/or - Certificate of Title Volume 6168 Folios 800, 801 and 802.

On 10 March 2021 you were advised that, pursuant to Section 14A of the FOI Act, the due date of 29 March 2021 would be extended to 30 April 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, 18 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:

- Refuse access to all 18 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.

All documents 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.

Information out of scope of the FOI application

Documents 2, 3, 4, 7, 8, and 9 contain matters considered out of the scope of this FOI application and 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.
- The information relates to your client's business affairs.
- Particulars relating to this site are already in the public domain.

Against release

- Members of the public should be able to provide information to the EPA in confidence - the release of such information may jeopardise the future supply of information regarding environmental issues.
- It is important to maintain frank and free information flow to government.
- The information contains Ms Coleman's professional affairs which she has provided freely to government.
- The degree to which information is already in the public domain.

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


Right of appeal

If you are unhappy 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 entitled Application for Review of Determination 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 \$36.75.

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

If you have any queries in relation to this determination please contact Mrs Heidi Ward, Senior Liaison Officer on 8204 2059 or email heidi.ward@sa.gov.au.

Yours sincerely


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

Date: 9/6/21