

15<sup>th</sup> February 2023

**Re: Freedom of Information Request 202306 - Request Part Granted.**

Dear \_\_\_\_\_,

I refer to your request dated 16<sup>th</sup> of January and received by this office on the 17<sup>th</sup>, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

*Records of all correspondence between staff at the Land Development Agency and Murray Consultants during the period 29 December 2022 to current date.*

I wish to inform you that I have decided to part-grant your request on the 15<sup>th</sup> of February 2023.

The purpose of this letter is to explain that decision.

**1. Findings, particulars and reasons for decisions.**

Details of your request were provided to all staff within the LDA to identify records held which were within the scope of your request.

The records requested are attached to this decision letter for your information.

The FOI Act 2014 provides that in certain circumstances, a public body may refuse the release of certain records or part thereof. As such a number of redactions have been applied to the attached records. These redactions are detailed in the Schedule of Records in **Appendix 1**.

The attached records contain information which is of a commercially sensitive nature. In accordance with the provisions of Section 36 of the Act, I am refusing the release of part of the record or certain records. Section 36 states that:

**Commercially Sensitive Information**

*36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains*

*(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or*

*(c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.*



I am satisfied that the release of certain commercial information contained within these records would prejudice the competitive position of the LDA.

### ***Public Interest Test***

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the harm and public interest relevant to this request.

I have considered the public interest issues which arise in your request, and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information being released.
- The right to commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part one of your request, I have taken account of the following:

- Allowing a public body to hold commercial information without undue access by members of the public.
- The public interest is not best served by releasing these records.
- That the LDA can conduct its commercial activities with external stakeholders in a confidential manner.
- That there is no overriding public interest that outweighs the individual's right to privacy in this case commercial activities.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

### **Section 37-Personal Information**

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. section 2 of the FOI Act defines personal information as follows:

#### **2. (1) *In this Act***

*"personal information" means information about an identifiable individual that, either*

*(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*

*(b) is held by an FOI body on the understanding that it would be treated by that body as confidential, and, without prejudice to the generality of the foregoing, includes*

*(iii) information relating to the employment or employment history of the individual,*



- (v) information relating to the individual in a record falling within section 11(6)(a).*
- (vii) information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,*

Section 37(1) provides that a public body shall refuse to grant a request if access to the records concerned would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties, and I am satisfied that the records consist of the personal

*37. (1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).*

As section 37 requires a public interest test be carried out. I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI.
- That there is more than just a transitory interest by the public in this information.
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The public interest is not best served by releasing these records.
- That the Organisation can conduct its business in a confidential manner.
- That there is a reasonable and implied expectation that sensitive personal information will remain confidential.
- That there is no overriding public interest that outweighs the individual's right to privacy.
- Allowing a public body to hold personal information without undue access by members of the public.

A public interest test was carried out when considering the release of the records but, having balanced the factors both for and against the release, I have decided that the public interest in preserving personal information would best be served by particular parts of the records provided.

## **2. Right of Appeal**

In the event that you are unhappy with this decision you may appeal against it. If you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Land Development Agency, 2<sup>nd</sup> Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to [foi@lda.ie](mailto:foi@lda.ie).



Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque,

and made payable to Head of Finance, Land Development Agency, 2<sup>nd</sup> Floor, Ashford House, Tara Street, Dublin 2.

Payment can be made by electronic means, using the following details:

**The Land Development Agency DAC**

**IE61AIBK93101264101092**

**BIC: AIBKIE2D**

You must ensure that your FOI reference number (**FOI 202306**) is included in the payment details.

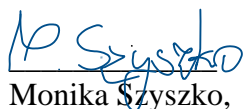
You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Please be advised that the Land Development Agency replies under Freedom of Information may be released into the public domain via our website at [lda.ie](http://lda.ie).

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone on (01) 9103400.

Yours sincerely,



Monika Szyszko,  
Compliance Manager

## Appendix 1: Schedule of Records

Requester name:		Request Re:202306			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
4,5,14	Email dated 1.1.2023 Business Post Article	Names and email	Section 37	Personal Information	Part grant
16,18,32	Email dated 8.1.2023	Names and email	Section 37	Personal Information	Part grant
34,35	Email dated 10.1.2023	Names and email	Section 37	Personal Information	Part grant
36	Email dated 9.1.2023	Names and email	Section 37	Personal Information	Part grant
38,39	Email dated 12.1.2023	Names and email	Section 37	Personal Information	Part grant
40,42,44,46	Email dated 4.1.2023	Names and email	Section 37	Personal Information	Part grant
48,49	Email dated 18.1.2023	Names and email	Section 37	Personal Information	Part grant
48	Email dated 18.1.2023	Discussion of a specific site	Section 36	Commercially sensitive	Part grant
50	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
51	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
51	Email dated 16.1.2023	Discussion of a specific site	Section 36	Commercially sensitive	Part grant
52	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
54,55,56	Email dated 13.1.2023	Names and email	Section 37	Personal Information	Part grant
54,55,56,58	Email dated 13.1.2023	Discussion of a specific site	Section 36	Commercially sensitive	Part grant
61,64	Email dated 13.1.2023	Names and email	Section 37	Personal Information	Part grant
66,69	Email dated 6.1.2023	Names and email	Section 37	Personal Information	Part grant
72,73,74	Email dated 4.1.2023	Names and email	Section 37	Personal Information	Part grant
76,77	Email dated 5.1.2023	Names and email	Section 37	Personal Information	Part grant
78,80	Email dated 1.1.2023	Names and email	Section 37	Personal Information	Part grant
82,83	Email dated 1.1.2023	Names and email	Section 37	Personal Information	Part grant
86,87	Email dated 29.12.2022	Names and email	Section 37	Personal Information	Part grant
88	Email dated 15.1.2023	Names and email	Section 37	Personal Information	Part grant
90,91,92	Email dated 15.1.2023	Names and email	Section 37	Personal Information	Part grant
94	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
96,97,98	Email dated 17.1.2023	Names and email	Section 37	Personal Information	Part grant



100	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
102,103	Email dated 20.1.2023	Names and email	Section 37	Personal Information	Part grant
104	Email dated 9.2.2023	Names and email	Section 37	Personal Information	Part grant
106,107,108	Email dated 3.1.2023	Names and email	Section 37	Personal Information	Part grant
110	Email dated 3.1.2023	Names and email	Section 37	Personal Information	Part grant
112,113	Email dated 9.1.2023	Names and email	Section 37	Personal Information	Part grant
114,115,116,117,118	Email dated 29.12.2022	Names and email	Section 37	Personal Information	Part grant
120,122	Email dated 6.1.2023	Names and email	Section 37	Personal Information	Part grant
124,125	Email dated 3.1.2023	Names and email	Section 37	Personal Information	Part grant
128,129	Email dated 4.1.2023	Names and email	Section 37	Personal Information	Part grant
132,133,135	Email dated 12.1.2023	Names and email	Section 37	Personal Information	Part grant
132,134	Email dated 12.1.2023	Discussion of specific sites	Section 36	Commercially sensitive	Part grant
138,140	Email dated 15.1.2023	Names and email	Section 37	Personal Information	Part grant
142	Email dated 16.1.2023	Names and email	Section 37	Personal Information	Part grant
1	Email dated 9.1.2023	Commercial information regarding payments and account	Section 36	Commercially sensitive	Refusal
1	Invoice dated 31.12.2022	Commercial information regarding payments and account	Section 36	Commercially sensitive	Refusal
1	Invoice dated 31.12.2022	Commercial information regarding payments and account	Section 36	Commercially sensitive	Refusal
			<b>Total number of pages</b>		148
			<b>Total number of pages for full release</b>		46
			<b>Total number of pages for partial release</b>		99
			<b>Total number of pages being withheld</b>		3

