

28 April 2015



**Robert Ashe**  
**Green Party Advisor**  
**Level 14.05, Bowen House**  
**Parliament Buildings**  
**Wellington**  
**p 04 817 6714**  
**m 027 499 0409**

**By email: [Robert.Ashe@parliament.govt.nz](mailto:Robert.Ashe@parliament.govt.nz)**  
**CC: [Russel.Norman@parliament.govt.nz](mailto:Russel.Norman@parliament.govt.nz)**

Dear **Robert**,

## **REQUEST UNDER THE OFFICIAL INFORMATION ACT 1982**

Thank you for your request dated 1 April 2015 made pursuant to the Official Information Act 1982 ("OIA").

### **Your Request**

You have requested the release of the following documents ("**Documents**"):

- Responsible Investment: Mining Sector & Engagement Framework, dated March 2013 - #837243 ("**Document 1**") and
- Portfolio Monitoring: Red List Stocks – Companies in the oil, gas, and coal sector, April 2013 -#846310 ("**Document 2**").

### **Summary of our response**

Based on your telephone conversation with Catherine Etheredge on 21 April 2015, we understand that your main interest in obtaining these documents is in relation to the issue of climate change risk. For your information, climate change risk considerations are not canvassed in Document 1. (As you are aware we have a separate project in train to understand climate change risk across the Fund's entire portfolio).

Document 2 includes information about three companies that appeared in our external research adviser's "red list" of companies which are potentially in breach of the Fund's responsible investment standards. The memo includes information relating to carbon emissions and climate change policy specific to one of these companies. Note: none of these companies are New Zealand companies.

We have decided to withhold the documents on the basis of the grounds set out below.

In deciding to withhold information we have considered whether the public interest in favour of disclosing that information outweighs our reasons for withholding it, and have concluded that it does not.

### **Reasons and grounds for withholding information**

Documents 1 and 2 have been withheld pursuant to section 9 of the OIA for the following reasons:

- To avoid unreasonable prejudice to the commercial position of the persons who supplied the information or who are the subject of the information (section 9(2)(b)(ii))
- To protect information that is subject to an obligation of confidence (section 9(2)(ba))
- To maintain the effective conduct of public affairs through the free and frank expression of opinions (section 9(2)(g)(i))
- To enable the Guardians to carry out, without prejudice or disadvantage, commercial activities (section 9(2)(i))
- To prevent the disclosure or use of official information for improper gain or improper advantage (Section 9(2)(k)).

The grounds for withholding the documents are that:

#### **Avoiding unreasonable prejudice**

- Both documents rely extensively on, and include information provided to the Guardians, by third party suppliers on a commercial and confidential basis, in this case by our ESG research provider MSCI. The Guardians compete in a global market for access to the best investment advisers and responsible investment screening agencies. Our suppliers are commercial entities in their own highly competitive markets. These suppliers are very concerned about protecting information that has been provided to their clients on a paid for, commercial basis. They are not likely to work with the Guardians if we cannot uphold the confidentiality of this information. We believe that it is in the public interest that we can maintain the highest standards of commercial sensitivity with those we work with.
- Both documents include views expressed and confidential information concerning particular entities. Releasing that information is likely to be prejudicial to the commercial position of the entities referred to.

#### **Obligation of confidence**

- Our partners and suppliers provide information on a confidential basis and rely on us to maintain and respect confidentiality. They will not work with us if we cannot uphold confidentiality of sensitive information, creating a very real risk that future engagement and the supply of such information would be jeopardised. It is in the public interest that we can maintain the highest standards of confidentiality with those we work with.
- The documents include information about the Guardians' responsible investment engagement programme in connection with specific companies. The Guardians' engagements with investee companies on responsible investment issues are conducted on a confidential basis. For an engagement to be successful, the Guardians needs to have a relationship of trust with the investee company in order to get access to information and to develop influence. The companies the Guardians engage with are not likely to work with the Guardians if the confidentiality of both the fact of the engagements and the information supplied as part of the engagement process cannot be upheld. This creates a very real risk that the supply of information from the companies concerned would be jeopardised and would put future engagements on responsible investment issues at risk. It is in the public interest that we can maintain the highest standards of confidentiality and commercial sensitivity regarding the details of the Guardians' engagements with companies.

#### **Full and frank expression of opinions**

- It is important for our efficient and effective operations that our staff and officers are able to express themselves freely and frankly when providing advice or giving their views as part of the process of deliberation. Release of such information in the current case would be likely to inhibit future free and frank expression of opinions of our staff and officers. The loss of frankness and candour would damage the quality of advice and deliberation and lead to poorer decision making by the Guardians.

**Prejudice to commercial activities**

- The Guardians carry out commercial activities. In doing so it competes with other investment funds and managers for access to the best investment opportunities. Our commercial positions would be prejudiced or disadvantaged if detailed information about our responsible investment strategies, engagement activities and likely future investment actions were made known to the relevant market participants ahead of any such actions.

**Improper gain or advantage**

- As noted above, the Guardians compete with other investment funds and managers for access to the best investment opportunities. Disclosure of this information would give competitors of the Guardians an improper advantage, by making freely available to them analyses and advice which have been developed at the Guardians' cost. The Guardians has made a significant financial investment, both through staff time and third party supplier costs, in preparing both documents. We note that these documents have been provided to other Crown Financial Institutions as part of a commercial, paid-for contractual arrangement. Releasing these documents publicly would give other market participants an improper advantage in being able to use the information at no cost.

**General**

As you may know, you have the right to seek a review by the Ombudsmen's Office of decisions to withhold information requested under the Official Information Act. We set out the details of the Ombudsmen's Office below should you wish to contact the office regarding our response to your request.

The Ombudsmen's details are: at: <http://www.ombudsmen.parliament.nz/>.

**Free phone:**  
0800 802 602  
(+64 4 4739533)

**Email:**  
[info@ombudsmen.parliament.nz](mailto:info@ombudsmen.parliament.nz)

**Fax:**  
(04) 471 2254

Yours sincerely



**Adrian Orr**  
**Chief Executive Officer**