

25 September 2020

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BY EMAIL

Dear Mr Arraf

## Freedom of Information request

I refer to your request received by the Future Fund Management Agency ("**Agency**") by email on 28 August 2020, requesting access under the *Freedom of Information Act 1982* ("**FOI Act**") to documents as follows (the "**Request**"):

*We make an application under the Freedom of Information Act 1982 for access to:*

1. *documents relating to the Future Fund's investments or equity holdings relating to any of the following companies:*
  - a) *Adani Ports and SEZ Ltd;*
  - b) *any subsidiaries of Adani Ports and SEZ Ltd.*
2. *documents relating to the Future Fund's risk assessment or due diligence into seeking any investment, whether eventually engaged into or not, relating to any of the following companies:*
  - a) *Adani Ports and SEZ Ltd;*
  - b) *any subsidiaries of Adani Ports and SEZ Ltd.*

*We exclude personal email addresses, signatures, mobile telephone numbers, contained in documents that fall within the scope of the FOI request.*

## Authorised decision-maker

I am authorised by the principal officer of the Agency under section 23(1) of the FOI Act to make a decision on requests for access to documents. My name and designation are set out below. This letter sets out my decision in relation to your Request for access to information, the reasons for that decision and your review rights in relation to the decision.

## My decision in relation to your FOI application

My decision and the reasons for my decision in relation to the Request are set out in the attached Statement of Reasons.

## Reviews and Complaints

For information regarding review options or the process for making a complaint please refer to the Office of the Australian Information Commissioner's website at:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gordon McKellar', with a stylized, looped flourish at the end.

Gordon McKellar  
**FOI Decision Maker**

Encl.

## STATEMENT OF REASONS

### EVIDENCE ON WHICH MY FINDINGS AND DECISION ARE BASED

In considering your Request, I relied on the following information and documentary evidence:

- your Request;
- FOI Act;
- *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982;*
- advice from investment areas within the Agency; and
- the Agency's electronic data management platform.

### DOCUMENTS FALLING WITHIN THE SCOPE OF YOUR REQUEST

In our initial acknowledgement letter dated 10 September 2020 we noted that, in order to properly identify any relevant documents, we would interpret:

- i) paragraph 1 of your Request to mean investments or equity holdings of the Future Fund Board of Guardians in Adani Ports and Special Economic Zone Limited ("**APSEZ**"), and any subsidiaries of APSEZ as at 28 August 2020;
- ii) paragraph 2 of your Request to mean the Future Fund Board of Guardians' risk assessment or due diligence into seeking any investment, whether eventually engaged into or not, in APSEZ or any subsidiaries of APSEZ in the 12-month period to 28 August 2020; and
- iii) your references to "any subsidiaries of Adani Ports and SEZ Ltd" in paragraphs 1 and 2 of your Request as a reference to the subsidiaries of APSEZ which are listed in Note 30 of the *Notes to the Standalone Financial Statements (for the year ended March 31, 2020), Adani Ports and Special Economic Zone Limited Integrated Annual Report 2019-20*, pp244-245. An extract of this was attached to our initial acknowledgement letter.

We requested that, if you disagreed with our interpretation, you inform us by 16 September 2020, with specific clarification of the area of disagreement.

In your email dated 16 September 2020, you requested that we extend the timeframe in paragraph 2 of your Request from the "12-month period to 28 August 2020" to "1 January 2017 until 28 August 2020".

We have processed your Request on the basis of the above.

## BACKGROUND

The Future Fund (the "**Fund**") was established by the *Future Fund Act 2006* (the "**Future Fund Act**"). The object of the Fund is to strengthen the financial position of the Commonwealth of Australia by making provision for unfunded Commonwealth superannuation liabilities.

The Future Fund Board of Guardians ("**Board**") is responsible for deciding how to invest the assets of the Fund and invests the assets of the Fund through external investment managers, as required by the Future Fund Act. Operating independently of Government, the Board, supported by the Agency, manages the Fund to deliver high risk-adjusted returns over the long term in accordance with the Investment Mandate Direction from Government.

The Board has a unique investment model and has developed a comprehensive investment program using a wide variety of strategies in order to operate effectively in increasingly competitive international financial markets. The Agency is responsible for the development of recommendations to the Board on the most appropriate investment strategy for the Fund and for the implementation of the strategy. The Board and the Agency concentrate on determining the most efficient allocation of risk across investment markets to generate desired returns.

As part of the Board's investment strategy, the Board has a broad global listed equity investment program which involves investment in several thousand listed entities across developed and emerging markets.

## DECISION

### *Paragraph 1 of your Request*

I have identified information falling within the scope of paragraph 1 of your Request. This information is set out in Appendix 1.

I note that the Board did not hold any such investments or equity holdings in the subsidiaries of APSEZ as at 28 August 2020.

The Agency is required by section 11C of the FOI Act to publish a disclosure log on its website detailing information released in response to a Freedom of Information access request, subject to certain exceptions. Particulars of the document produced pursuant to the Request will be published by the Agency on the disclosure log on the Future Fund website.

### *Paragraph 2 of your Request*

I am satisfied that no document exists that falls within the scope of paragraph 2 of your Request, and accordingly I have decided to refuse access to the documents requested in paragraph 2 of your Request (section 24A of the FOI Act). This decision is without prejudice as to whether an exemption would have applied pursuant to the FOI Act had such a document existed.

\* \* \*

## **APPENDIX 1**

As at 28 August 2020, the Future Fund Board of Guardians had listed equity holdings, through a passive mandate with an external manager, in Adani Ports and Special Economic Zone Limited with an aggregate value of AUD\$3,207,810.53.