



TRS20D2629

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Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
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Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 6 August 2020.

Your application seeks access to:

“All minutes, briefings and correspondence titled ‘Complaints from local business who missed out on work to interstate firms because of Covid-19 - Defence SA Tender DSA046530’ as described on the Objective document management system, between 9 April and 6 August 2020.”

The prescribed legislative timeframe to determine this application has expired and is deemed as refused access to documents relevant to your application. I refer to my letter dated 18 August 2020 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

Following consultation with the relevant parties, I have determined to accept the advice of the Industry Advocate and refuse access to this document under the Act.

Detail provided in this briefing is commercially sensitive and relates to information provided to my office that was part of a competitive tender process. It is exempt under clauses 7(1)(c) and 16(2) as it contains information of commercial value supplied to the Industry Advocate that could reasonably prejudice particular businesses and in turn, hinder future commercial activities of the Industry Advocate by a reasonable expectation that it could have an adverse effect on the future supply of information.

Exemptions

7 – Documents affecting business affairs concerning

- (1) A document is an exempt document—
 - (b) if it contains matter—

- (i) *consisting of information (other than trade secrets) that has a commercial value to 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; or*
- (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*
would, on balance, be contrary to the public interest.

Clause 16 – Agency operations

(1) *A document is an exempt document if—*

- (a) *it relates to an agency engaged in commercial activities; and*
- (b) *it contains matter the disclosure of which could prejudice the competitiveness of the agency in carrying on those commercial activities.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Ms Vicky Cathro, Ministerial Liaison Officer, by telephone on 8226 9769 or by email to vicky.cathro@sa.gov.au.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

25 April 2021