



**Government  
of South Australia**

TRS19D2878

Hon Stephen Mullighan MP  
Member for Lee  
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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 16 October 2019.

Your application seeks access to:

*"All minutes, briefings and correspondence titled 'Commercial and Economics – SAHMRI 2 Project – A1092792 – Implications for Financial Close Under Revised Approach' as described on the Objective document management system, between 23 February 2019 and 16 October 2019."*

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 3 November 2019 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.

I grant you access in part to 1 document; a copy of which is enclosed.

**Released in Part**

Document 1 is a briefing which was prepared by DTF for my information.

Under clause 5 of Schedule 1 to the Act, information is exempt from disclosure if it contains matter the disclosure of which could reasonably be expected to cause damage to intergovernmental relations; or would divulge information from a confidential intergovernmental communication.

While there is a strong public interest in government accountability and transparency, there is also the competing public interest to ensure that full and frank communications between varying jurisdictions can occur in confidence. I therefore determine this exempt pursuant to clause 5 to the Act.

There is also information contained in the briefing which was provided to the state on a confidential basis concerning financial arrangements relating to the project. Disclosing this information would breach confidentiality and risk willingness in the future to be open and transparent with the state and provide such information. I therefore determine this exempt pursuant to clause 13(1)(b).

## **Exemptions**

### ***Clause 5 – Documents affecting inter-governmental or local governmental relations***

- (1) *A document is an exempt document if it contains matter—*
  - (a) *the disclosure of which—*
    - (i) *could reasonably be expected to cause damage to intergovernmental relations; or*
    - (ii) *would divulge information from a confidential intergovernmental communication; and*
  - (b) *the disclosure of which would, on balance, be contrary to the public interest.*

### **Clause 13 – Documents containing confidential material**

- (1) *A document is an exempt document*
  - (a) *if it contains matter the disclosure of which would found an action for breach of confidence; or*
  - (b) *if it contains matter obtained in confidence the disclosure of which*
    - (i) *might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and*
    - (ii) *would, on balance, be contrary to the public interest.*

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.

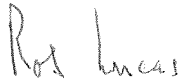
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit 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 Vicky Cathro on 8226 9769.

Yours sincerely

A handwritten signature in black ink that reads "Rob Lucas". The signature is written in a cursive style with a large initial "R".

**Hon Rob Lucas MLC**  
*Principal Officer*

6 August 2020

**RELEASE IN PART**

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File No: \_\_\_\_\_  
Physical ID: T&F18/0614

MINUTES forming ENCLOSURE

File T&F18/0614

Doc No A1092792

To The Treasurer

**SAHMRI 2 PROJECT – IMPLICATIONS FOR FINANCIAL CLOSE UNDER REVISED APPROACH**

Timing: ROUTINE

**Recommendations/Issues:** It is recommended that you:

- Note the contents of this briefing and the implications for financial close of [REDACTED]
- Note that, subject to discussions with SAHMRI, you will shortly receive a recommendation to write to SAHMRI extending the satisfaction date under the Agreement to Lease to 30 June 2019,

clause 5

Noted

*Rob Lucas*

Hon Rob Lucas MLC  
Treasurer

20/4/19

**Key Points:**

- The Commercial and Economics Branch (CEB) of DTF has previously advised you that

[REDACTED]  
clause 13

[REDACTED]  
clause 5

- You approved this new approach on 3 April 2019 and requested further information (including options to be considered) on the implications for the project under this revised approach,

[REDACTED]  
clause 13

[Redacted]

clause 5

However, the State-SAHMRI Agreement is unlikely to be finalised before the 30 April deadline, meaning the Agreement to Lease will lapse before that time unless extended by the State and SAHMRI.

- Should the satisfaction date of 30 April 2019 lapse, either party can potentially walk away from the Agreement to Lease although this unlikely to occur as both the State and SAHMRI remain committed to the Project. However, allowing it to lapse increases ambiguity about State's commitment to the Project.

[Redacted]

clause 13

- A more reasonable extension would for an additional three months to 30 June 2019. This will encourage SAHMRI to work with the Commercial and Economics Branch to finalise the State – SAHMRI agreement which will allow the Agreement to Lease to be executed.
- Subject to further discussion with SAHMRI, a recommendation to write to SAHMRI seeking a three month extension to 30 June 2019 will be provided under separate cover shortly.

Brad Gay  
EXECUTIVE DIRECTOR, COMMERCIAL AND ECONOMICS

12 April 2019

Contact Officer:	Andrew Cadd
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**Supported / Not Supported**

**David Reynolds**  
**CHIEF EXECUTIVE**  
Department of Treasury and Finance  
Date: 13 / 4 / 19