



File: T&F21/0374  
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15 September 2021

Mr Greg Harris  
Vehicle Solutions Australia Pty Ltd  
1/12 Greenhill Road  
WAYVILLE SA 5034

Sent via email: [greg@vehiclesolutionsaustralia.com.au](mailto:greg@vehiclesolutionsaustralia.com.au)

Dear Mr Harris

### Freedom of Information – Salary Sacrifice Maxxia

I refer to your application under the *Freedom of Information Act 1991* (FOI Act), received by the Department of Treasury and Finance (DTF) on 28 April 2021.

Your application specifically requested:

*"Documents being requested: All documents regarding Tender Code PSWR021588 which opened on 13 October 2011, which was awarded to Maxxia Pty Ltd as the sole provider of salary packaging and novated leasing services to the South Australian Government for a period of six years commencing 1 April 2012. All documents relating to the statement from SA Relations Minister Russell Wortley where he stated that one of McMillan Shakespeare's divisions, Holden Leasing was a factor in the decision to award Maxxia the sole contract. All documents regarding the support package that the Government was negotiating with GM Holden as they relate to Maxxia being awarded the sole contract."*

A second application was received on 5 May 2021 requesting:

*"All documentation relating to the process of extending Maxxia's contract as sole external provider of salary packaging administration and novated leasing services of the South Australian Government from 30 June 2018 to 30 June 2023 which was announced by the Board of McMillan Shakespeare Limited on 5 February 2016."*

A revised scope combining both applications was agreed to on 7 May 2021 requesting:

*'Any final version documents, Minutes and briefings relating to:*

- The evaluation criteria/report awarding a 6 year contract to Maxxia for the tender code PSWR021588*
- The final contract awarded to Maxxia for PSWR021588*
- GM Holden's involvement and the support package negotiated, and how it relates to Maxxia being awarded the sole contract. What documents are available which show evidence of preferential pricing over that from other salary packaging providers? To assist in your search, please find attached an article in the SA Business Journal, Tuesday 13 March 2012, which refers to the statements from SA Relations Minister, Russell Wortley. Of particular interest is the statement that "From*

*April 1, 2012, if an individual chooses to enter into a novated lease for a new General Motors Holden vehicle, Maxxia will provide access to preferential pricing".*

*• The extension of Maxxia's contract as sole external provider of salary packaging administration and novated leasing services to the SA government from 30/06/2018 - 30/06/2023, which was announced by the Board of McMillan Shakespeare Ltd on 05/02/2016.'*

Under the Act, an agency has 30 days to respond to a freedom of information request. As DTF did not respond to your request within the time frame required, the department is deemed to have refused you access to all documents relevant to your application. However, I have determined to process the request as if the statutory time frame had been met.

The purpose of this letter is to advise you of my determination.

A total of 28 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 10 documents, copies of which are enclosed
- I grant you access in part to 10 documents, copies of which are enclosed, and
- I refuse you access to 8 documents.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

### **Documents released in full**

Documents 19-28

### **Documents released in part**

Documents 1 and 5 contains information relating to the personal affairs of a third party. Under clause 6(1) of Schedule 1 to the FOI Act, a document is exempt if its disclosure would involve the 'unreasonable disclosure of information concerning the personal affairs of any person'. This information falls within the definition of personal affairs under the Act and is therefore exempt from release pursuant to clause 6(1).

Document 6 contains information which, if released, would disclose details concerning a deliberation or decision of Cabinet and as such is exempt from release pursuant to clause 1(1)(e) of Schedule 1 of the FOI Act.

In addition to details concerning a deliberation or decision of Cabinet, document 6 also contains information that is exempt from disclosure if it would be privileged from production on the ground of legal professional privilege. A section of this document contains legal advice provided to the government by its legal advisor, the Crown Solicitor, Information which is subject to legal professional privilege. I have therefore determined to remove this section pursuant to clause 10(1) of Schedule 1 to the FOI Act.

Documents 1-6, 10 and 12-13

These documents contain information regarding the government's evaluation of the tender responses from businesses in the procurement process for the South Australian Government Salary Sacrifice Arrangement. The tenders participating in this procurement process are competing in a commercially competitive environment. Release of this information would reveal the commercially valuable affairs of the government and the tenders and provide competing businesses with the ability to undercut the companies involved.

In applying the public interest test, I have considered the objects of the Act, which favour release. I acknowledge there is a strong public interest in the public being able to scrutinise the government's procurement process. However, I have determined that this is outweighed by the need to ensure that the government is not disadvantaged by the release of information regarding the evaluation process. Release of this information could reasonably be expected to have an adverse effect on the business affairs of those companies and negatively impact on the government's ability to negotiate the successful tender and get best value for money. I have therefore determined to exempt this information from disclosure pursuant to clause 7(1)(c) of Schedule 1 of the FOI Act.

Documents 18 relates to the Principal Agreement. The redacted information relates to active bank account details which form part of the business and financial affairs of the State Government. If released, there is a possibility some adverse effect could flow from their disclosure. As the release of this information is not likely to enhance participation by members of the public in the democratic process but could possibly have some adverse effect on the State's financial affairs, DTF considers that, on balance, it would be contrary to the public interest to release it. As such, I have determined to exempt this information pursuant to clause 7(1)(c) of Schedule 1 to the FOI Act.

### **Documents refused in full**

Documents 7-9, 11, 14-17 outline the government's evaluation of the tenders and the tenderer's responses. Disclosure of these documents would divulge commercially valuable information that could reasonably be expected to have an adverse effect on those businesses involved in the tender and negatively impact the government's ability to negotiate and achieve best value for money. I have therefore determined to exempt these documents pursuant to clause 7(1)(c) of Schedule 1 of the FOI Act.

## **EXEMPTIONS**

### **Clause 1 – Cabinet documents**

- (1) *A document is an exempt document –*  
 ...  
 (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; ...*

### **Clause 6 – Documents affecting personal affairs**

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

### **Clause 7 – Documents affecting business affairs**

- (1) *A document is an exempt document—*  
 ...  
 (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

(B) would, on balance, be contrary to the public interest.

### **Clause 10 – Legal Professional Privilege**

(1) A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), DTF is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

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: <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars> Please visit the website for further information.

### **Appeal Rights**

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the FOI Act. Pursuant to subsection 29(2), your application must:

- be in writing
- be accompanied by the application fee of \$38.25
- be addressed to the principal officer, and
- be lodged at an office of DTF or emailed to [freedomofinformation2@sa.gov.au](mailto:freedomofinformation2@sa.gov.au) within 30 days after the day on which you receive this letter or within such further time as the principal officer may allow.

If you require any further information, please phone Inthira Stocker on (08) 8429 3497.

Yours sincerely



Maria Ross  
ACCREDITED FREEDOM OF INFORMATION OFFICER

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**Schedule of Documents**

T&F21/0374 - Greg Harris, Vehicle Solutions Australia Pty Ltd - " Any final version documents, Minutes and briefings relating to:

- The evaluation criteria/report awarding a 6 year contract to Maxxia for the tender code PSWR021588
- The final contract awarded to Maxxia for PSWR021588
- GM Holden's involvement and the support package negotiated, and how it relates to Maxxia being awarded the sole contract. What documents are available which show evidence of preferential pricing over that from other salary packaging providers? To assist in your search, please find attached an article in the SA Business Journal, Tuesday 13 March 2012, which refers to the statements from SA Relations Minister, Russell Wortley. Of particular interest is the statement that "From April 1,2012, if an individual chooses to enter into a novated lease for a new General Motors Holden vehicle, Maxxia will provide access to preferential pricing".
- The extension of Maxxia's contract as sole external provider of salary packaging administration and novated leasing services to the SA government from 30/06/2018 - 30/06/2023, which was announced by the Board of McMillan Shakespeare Ltd on 05/02/2016.'."

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
1	undated	Executive Paper - Salary Sacrifice (2011)	12	Released in part	6(1) - Unreasonable disclosure of personal affairs 7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
2	27/02/2012	Minute - Chief Executive, DPC - Purchase Recommendation: Public Sector Workforce Relations - SA Government Salary Sacrifice Arrangements (SAGSSA)	2	Released in part	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
3	16/02/2012	Minute - Chair, APU - Purchase Recommendation: Public Sector Workforce Relations - SA Government Salary Sacrifice Arrangements (SAGSSA)	3	Released in part	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
4	1/03/2012	Minute - Executive Director, PSWR - Purchase Recommendation: Public Sector Workforce Relations - SA Government Salary Sacrifice Arrangements (SAGSSA)	2	Released in part	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
5	8/02/2021	Purchase Recommendation (over \$110, 000) - SA Government Salary Sacrifice Arrangements - PSWR021589	18	Released in part	6(1) - Unreasonable disclosure of personal affairs 7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest

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**Schedule of Documents**

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
6	29/08/2011	Acquisition Plan - SA Government Salary Sacrifice Arrangements	41	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
					7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
					10(1) - Subject to legal professional privilege
7	undated	Evaluation Plan - SA Government Salary Sacrifice Arrangements	28	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
8	undated	Request for Proposal - SA Government Salary Sacrifice Arrangements - Overall Evaluation Report	34	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
9	undated	Request for Proposal - SA Government Salary Sacrifice Arrangements - Information Report	11	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
10	undated	SA Government Salary Sacrifice Arrangements - Procurement Options Paper	12	Released in part	6(1) - Unreasonable disclosure of personal affairs
					7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
11	undated	Attachment 1.1 - Analysis	11	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
12	9/01/2012	SA Government Salary Sacrifice Arrangements - Procurement Options Paper No.2	7	Released in part	6(1) - Unreasonable disclosure of personal affairs
					7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
13	40920	SA Government Salary Sacrifice Arrangements - Procurement Options Paper No.2A	7	Released in part	6(1) - Unreasonable disclosure of personal affairs
					7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
14	12/01/2012	Request for Proposal - SA Government Salary Sacrifice Arrangements - Options paper	13	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
15	12/01/2012	Request for Proposal - SA Government Salary Sacrifice Arrangements - Negotiation Directive	15	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest

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**Schedule of Documents**

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
16	31/01/2012	Request for Proposal - SA Government Salary Sacrifice Arrangements - Negotiation Report	20	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
17	17/10/2011	Request for Proposal - SA Government Salary Sacrifice Arrangement - Risk Assessment, Profile and Action Plan (version 3 - SAGSSA Steering Committee Meeting No 4)	14	Refused in full	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
18	2/03/2012	Principal Agreement	109	Released in part	7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
19	10/04/2017	Variation Agreement	12	Released in full	
20	undated	General Advice	1	Released in full	
21	19/10/2011	SAGSSA Request for Proposal - Industry Brief	27	Released in full	
22	13/10/2011	Request for Proposal: SA Government Salary Sacrifice Arrangements - PSWR021588	1	Released in full	
23	undated	Part A - Invitation and Bid Rules (attachment to document 22)	13	Released in full	
24	undated	Part B - Service Specification (attachment to document 22)	25	Released in full	
25	undated	Part C1 - Draft Principal Agreement (attachment to document 22)	102	Released in full	
26	undated	Part C2 - Salary Sacrifice Agreement (attachment to document 22)	6	Released in full	
27	undated	Part C3 - Salary Sacrifice Service Agreement (attachment to document 22)	5	Released in full	
28	undated	Part D - Response Templates (attachment to document 22)	76	Released in full	