



**Government
of South Australia**

TRS19D1205

Hon Stephen Mullighan MP
Member for Lee
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Stephen
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 10 May 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Assistants to Member of the South Australian Parliament Enterprise Bargaining Negotiations 2018 Management Agenda' as described on the Objective document management system, between 12 July 2018 and 10 May 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 26 May 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.

Document Released in Part

This is a briefing which was prepared by DTF for my consideration in relation to proposed management agenda items for negotiation of the new Assistants to the Members of the South Australian Parliament Enterprise Agreement

This document contains extracts from documents specifically prepared for submission to Cabinet or a committee of Cabinet, and therefore exempt pursuant to

clause 1(1)(c). In addition, it also contains information concerning a deliberation of Cabinet or Cabinet Committee. I therefore determine this exempt pursuant to clause 1(1)(e).

I advise that this document is a briefing which was prepared internally and contains advice and recommendations which were considered for the purpose of decision making relating to the functions of Government. On balance, it is not in the public interest to disclose the content of these documents as it is important for the Government to receive frank and comprehensive advice and opinions, including the expression of views which may be contentious. The prospect that unknown third parties may obtain access to those documents by way of an FOI application may inhibit the provision of full and open opinions and recommendations on such matters in the future.

These briefings are provided to me on the basis that they are both forthright and candid. If these briefings were to be disclosed, such advice and commentary would not be provided in a candid and forthright manner. Disclosure may also lead to confusion and unnecessary debate resulting from the disclosure of possibilities that are being considered.

Whilst there is a strong public interest in government accountability and transparency, there is the competing public interest to ensure that full and frank advice can occur in confidence. It is necessary that I'm appropriately informed and updated on these matters.

It is my submission that disclosure would, on balance, be contrary to public interest. This is because a Minister of the Crown, as one of the highest offices of a Government, should be able to communicate sensitive matters without subsequent promulgation of opinion and advice deliberated in pre-decisional communications. Disclosure would inhibit frankness and candour in future pre-decisional communications at the highest level of Government and lead to confusion and unnecessary debate resulting from disclosure of possibilities considered. This is the longstanding legal position and there is no reason to depart from that in this matter.

On the balance, it is my submission that the information redacted in document 1 should not be released for the reasons outlined above, pursuant to clause 9 of the Act.

Exemptions

Clause 1 – Cabinet Documents

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

- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
- (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
- (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
- (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*
- (f) *if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

Clause 9 — Internal Working Documents

- (1) *a document is an exempt document if it contains matter—*
- (a) *that relates to—*
 - (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
 - (ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*
 - (b) *the disclosure of which 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.

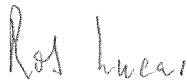
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit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



Hon Rob Lucas MLC
Principal Officer

11 July 2020

RELEASE IN PART

MINUTE

10/12/18
 18?
 18?
 File No: 18/038 EB
 Physical ID: TRS18D2554



MINUTES forming ENCLOSURE

File ES18/0146

Doc No ES18D0253

To The Treasurer

**ASSISTANTS TO THE MEMBERS OF THE SOUTH AUSTRALIAN PARLIAMENT
 ENTERPRISE BARGAINING NEGOTIATIONS 2018 MANAGEMENT AGENDA**

Timing: ROUTINE — For consideration

Recommendations/Issues: It is recommended that you:

- Approve the proposed management agenda items for negotiation of the new Assistants to the Members of the South Australian Parliament Enterprise Agreement.

Minors to apply for when agreement is signed

Approved / Not-Approved

[Redacted]

Cabinet Committee Submission

[Redacted]

clause 1(1)(e)

Noted

Rob Lucas

Hon Rob Lucas MLC
 Treasurer

18/12/18

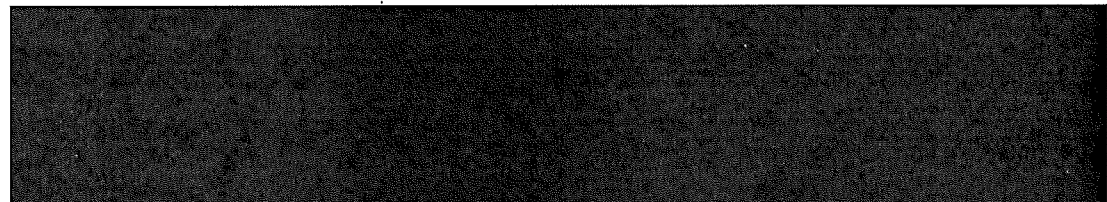
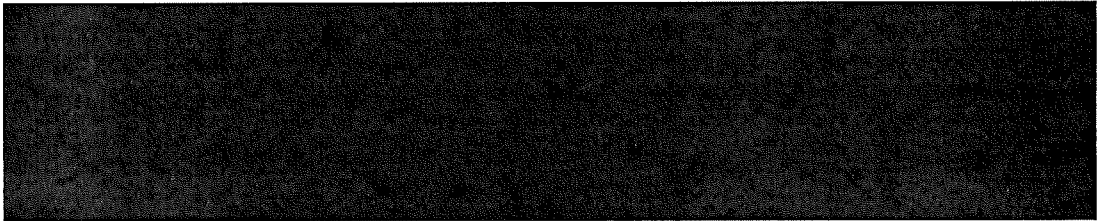
Key Points:

- The current *Assistants to the Members of the South Australian Parliament Enterprise Agreement 2016* (the Agreement) expired on 30 September 2018 and consideration is currently being given to the negotiation of a new agreement. The last salary increase of 2.5% per annum was paid to Assistants from 1 October 2017.



- The parties to the Agreement will be the Chief Executive, Department of the Premier and Cabinet (as the declared employer pursuant to the *Fair Work Act 1994*), the Australian Services Union (ASU), the Public Service Association of SA (PSA) and the non-unionised employees. IRAP will lead the negotiations on the Government's behalf. Electorate Services has commenced discussions with IRAP regarding the process for enterprise bargaining negotiations and IRAP has been consulted and supports the proposed management agenda.
- IRAP has written to both the ASU and the PSA as the employee representatives, and negotiation protocols have been agreed. Electorate Services will be liaising with the non-unionised employees to establish their requirements for representation at the negotiations.
- The Notice of Intent to commence negotiations was issued on 27 November 2018, with the first formal meeting of the Single Bargaining Centre scheduled for 20 December 2018.
- At this time we have not received a log of claims from the ASU, PSA or any non-unionised employees.

The Management Agenda we seek your direction on contains the following:



clause 1(1)(c)

[Redacted] Cabinet Committee Submission [Redacted]

clause 1(1)(e)



Paul Tatarelli
MANAGER, ELECTORATE SERVICES

7 December 2018

Supported / Not Supported
Matter of judgement
- could apply salary increases rather than flat 1.5%
David Reynolds
CHIEF EXECUTIVE
Department of Treasury and Finance
Date *10.1.2018*

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|------------------|--------------------------|
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| Email address: | paul.tatarelli@sa.gov.au |