



File: T&F19/0110
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3 June 2019

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Hon. Stephen Mullighan MP
Member for Lee
Level 1, 62 Semaphore Road
SEMAPHORE SA 5019

Email: lee@parliament.sa.gov.au

Dear Mr Mullighan

Freedom of Information Internal Review — GST (Goods and Services Tax)

I refer to your Freedom of Information application received by the Department of Treasury and Finance on 22 February 2019 and your Internal Review application received on 26 March 2019.

Your applications specifically requested:

"[Date Range: 30/06/2018 – 22/02/2019] All documents, minutes, briefings, notes, emails and correspondence from the Department of Treasury and Finance to the Treasurer and the Treasurer's Office regarding the GST (Goods and Services Tax)."

Determination under review

DTF did not make a determination on your initial application within the 30-day time period required by the Freedom of Information Act 1991 (the Act). Accordingly, DTF was deemed to have refused access in full to all documents relevant to your application.

Outcome of internal review

Under section 29(3) of the FOI Act, on an application for internal review, as principal officer I may, confirm, vary or reverse the determination under review. In doing so, I am required to give fresh consideration to the decision under the FOI Act

I have determined to **vary** the original deemed refusal.

A total of 43 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 13 documents, copies of which are enclosed
- I grant you access in part to 2 documents, copies of which are enclosed, and
- I refuse you access to 28 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 1, 5, 7, 17, 19, 20, 22, 24, 25, 34, 40, 43 and 48

Documents released in part

Documents 3

This document contains sections that are not relevant to your request and they have been removed accordingly.

Document 21

Pursuant to clause 5 of Schedule 1 to the FOI 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. A section of this document contains confidential information provided by the Commonwealth government. If released, this could reasonably be expected to cause damage to relations between the State and the Commonwealth government.

In assessing the public interest, I have considered the need for transparency of the government's decision making, and enabling public participation in this process. However, I have also considered the public interest in ensuring sensitive communication provided by the Commonwealth, remain confidential and that on balance, it would be contrary to the public interest for this information to be released.

Documents refused in full

Document 2

This document is a briefing note prepared specifically for use in Parliament, the disclosure of which would infringe the privilege of Parliament. I have therefore determined to exempt the document in full pursuant to clause 17(c) of Schedule 1 to the FOI Act.

Documents 4, 6, 10 and 27

These documents were specifically prepared for submission to Cabinet. As stated in clause 1(3) of Schedule 1 of the FOI Act, "...a reference to Cabinet includes a reference to a committee of Cabinet and to a subcommittee of a committee of Cabinet." I have therefore determined to exempt this information pursuant to clause 1(1)(a) of Schedule 1 of the FOI Act.

Documents 9, 11 and 12

These documents are either a copy of or contain extracts from documents which were submitted to Cabinet. I have therefore determined to exempt this information pursuant to clause 1(1)(c) of Schedule 1 of the FOI Act.

Document 26

This document contains information which, if released, would disclose details concerning a deliberation or decision of Cabinet. I have therefore determined to exempt this information pursuant to clause 1(1)(e) of Schedule 1 of the FOI Act.

Documents 15, 16, 18, 28-33, 35-39, 42, 44, 45 and 47

Under clause 5 of Schedule 1 to the FOI 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. The above documents contain confidential information circulated between the States and Territories concerning GST reform. If released, it could reasonably be expected to cause damage to intergovernmental relations, particularly information sharing between jurisdictions. In addition, disclosing such confidential information could jeopardise the development of joint policy between the Commonwealth and the States and Territories.

In assessing the public interest, I have considered the need for transparency of government policy and decision making. However, I have also considered the need to ensure sensitive communication between the Commonwealth and the States and Territories, remain confidential. Taking all of this into account, I have therefore determined to refuse access to these documents pursuant to clause 5 of Schedule 1 of the FOI Act.

Document 23

Having regard to the content of this document, it is my view that it contains recommendations from the Revenue and Intergovernmental Relations branch in response to a request from the Minister's office. In considering the public interest, I acknowledge the strong public interest around the government's decision making, however in my view, this is outweighed by the need to ensure that public servants are able to provide advice without inhibiting frankness and candour. Disclosure of this document would hinder free communication and is unlikely to contribute to public debate. Therefore, In accordance with clause 9(1) of schedule 1 to the FOI Act, I have determined to exempt the recommendations in full.

Further to the exemptions applied under clause 9, document 23 also contains information that is not relevant to the application which have been removed accordingly.

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 (1); 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); or*
 - (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.*
- (3) *In this clause, a reference to Cabinet includes a reference to a committee of Cabinet and to a subcommittee of a committee of Cabinet.*

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 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.

Clause 17 – Documents subject to contempt etc

A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—

(a) constitute contempt of court; or

(b) contravene any order or direction of a person or body having power to receive evidence on oath; or

(c) infringe the privilege of Parliament

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.

External review

If you remain dissatisfied with this determination, you have the right to apply to the Ombudsman for external review under section 39 of the FOI Act. You have 30 days from the date on which you receive this letter to apply for an external review. If you have any questions about an application to the Ombudsman, please contact the office on (08) 8226 8699.

Yours sincerely



David Reynolds
PRINCIPAL OFFICER

Schedule of Documents

T&F19/0110 - The Hon Stephen Mullighan MP - "All documents, minutes, briefings, notes, emails and correspondence from the Department of Treasury and Finance to the Treasurer and Treasurer's Office regarding GST (Goods and Services Tax) [Date Range: 30/06/2018 to 22/02/2019]."

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
1	3/07/2018 9:18am	Email - RE: PBN - update	1	Released in full	
2	3/07/2018	Attachment to document 1 - PBN	4	Refused in full	17(c) - Disclosure would infringe the privilege of Parliament
3	3/07/2018 5:21pm	Email - RE: Details for the embargoed release of the PC report	4	Released in part	Sections not relevant
4	11/07/2018	Minute - Productivity Commission's Inquiry into HFE - Final Report & Commonwealth Interim Response.	6	Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee
5	11/07/2018	Attachment to Document 4 - Productivity Commission inquiry into horizontal fiscal equalisation: Government (Cwth) interim response	32	Released in full	
6	11/07/2018	Attachment to Document 4 - Cabinet document	2	Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee
7	11/07/2018	Attachment to Document 4 - Chart of iron ore prices	1	Released in full	1(1)(c) - Copy, part or extract of document prepared for Cabinet or Cabinet committee
8	18/07/2018	Minute - Cabinet Note.	2	Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee
9	18/07/2018	Attachment to document 8 - Cabinet Note	1	Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee

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Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
10	18/07/2018	Attachment to Document 9 - Attachment A	4	Refused in full	1(1)(c) - Copy, part or extract of document prepared for Cabinet or Cabinet committee 5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
11	18/07/2018	Attachment to Document 8 - Cabinet speaking notes	1	Refused in full	1(1)(c) - Copy, part or extract of document prepared for Cabinet or Cabinet committee
12	25/07/2018	Agenda - Board of Treasurer's meeting on 3 August 2018	1	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
13	30/11/2018	Briefing - Board of Treasurers meeting - 30 November 2018 HFE - Commonwealth Reform Package	3	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
14	30/11/2018	Attachment to Document 13 - Attachment A - Commonwealth proposal - Impact on GST distribution on Commonwealth modelling (\$ million)	1	Released in full	

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Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
15	30/11/2018	Attachment to Document 13 - State positions on other HFE reform recommendations	1	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
16	30/11/2018	Attachment to Document 13 - News article	2	Released in full	
17	18/12/2018 1:02pm	Email - 2018-19 Cwth MYEFO_Min to T	1	Released in full	
18	18/12/2018	Attachment to Document 17 - Minute to the Treasurer - Commonwealth MYEFO - Impact on GST Revenue	3	Released in part	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
19	18/12/2018	Attachment to Document 18 - Copy of extract from the 2018-19 Commonwealth MYEFO.	11	Released in full	
20	19/12/2018 10:38am	Email - Re: For review by DTF please - draft GST media release	3	Refused in full	9(1)(a)(i) - Contains matter relating to opinion, advice or recommendation prepared for decision-making of the Government, a Minister or an agency & contrary to public interest
21	20/12/2018 1:09pm	Email - MYEFO - GST impact	1	Released in full	Sections not relevant

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Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
22	20/12/2018	Attachment to Document 21 - Impact of changes in the GST pool - Commonwealth MYEFO	1	Released in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
23	22/01/2019	Minute - Cabinet Note	3	Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee
24	22/01/2019	Attachment to document 23 - Cabinet Note	5	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
25	23/01/2019 4:57pm	Email - BoT agenda	1	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
26	23/01/2018	Attachment to Document 25 - Board of Treasurers Agenda	1	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
27	7/02/2019	Briefing - Board of Treasurers meeting - Minutes from the previous meeting	2	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest

Schedule of Documents

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
28	7/02/2019	Attachment to Document 27 - Minutes from the previous Board of Treasurers meeting	4	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
29	7/02/2019	Briefing - Board of Treasurers meeting	3	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
30	7/02/2019	Briefing- Board of Treasurers meeting	2	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
31	7/02/2019	Attachment to Document 30 - Attachment A: Commonwealth payments for specific purposes as a proportion of selected indicators	1	Released in full	
32	7/02/2019	Briefing - Board of Treasurers meeting	3	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest

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Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
33	8/02/2019	Briefing - Council for Federal Financial Relations	2	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
34	8/02/2019	Briefing - Council for Federal Financial Relations	4	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
35	8/02/2019	Attachment to Document 34 - Heads of Treasuries Deputies Report	2	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
36	8/02/2019	Attachment to Document 34 - Report by the GST Administration Sub-Committee	7	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
37	undated	Report - GST administration annual performance report 2017-18	50	Released in full	

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Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
38	13/02/2019	Draft minutes from the Board of Treasurers meeting held on 7 February 2019.	4	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
39	16/07/2018 at 10:30pm	Email - Submissions to the Commonwealth Grants Commission	2	Released in full	
40	22/11/2018 2:20pm	Email - FW: Notification of Taxpayer Alert	3	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
41	20/11/2018	Attachment to document 40 - GSTAS briefing - Taxpayer Alert	4	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
42	23/11/2018	Minute - ATO Taxpayer Alert - GST on Development Leases	3	Refused in full	5(1)(a)(ii) - Contains information from confidential intergovernmental communication & contrary to public interest
43	15/02/2019 9:37am	Email - GST Revenue	2	Released in full	

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