

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Information to be published	Status
1. Decision notice	Published
2. Documents and schedule	Published
3. Additional information identified	No
4. Fees	N/A

Shane Rattenbury MLA
Attorney-General
Minister for Consumer Affairs
Minister for Water, Energy and Emissions Reduction
Minister for Gaming

Member for Kurrajong

CMTEDDFOI 2023-241 - Decision

I refer to your emails of 9, 27 and 28 July 2023 to the Chief Minister, Treasury and Economic Development Directorate, seeking access to documents. Your request is as follows:

“1. All correspondence (including, letters, emails including attachments), file notes from 1 October 2022 to date (9 July 2023) to or from Louise Curtis, Darren Carden (including Eastwoods Legal, Pink Frosting, 86 Candles Pty Ltd, Trustee for 86 Candles Unit Trust and Lollypotz) relating to allegations of a conflict of interest involving the former and current ACT Commissioner for Fair Trading.

- This would include material to/from Shane Rattenbury to: Elizabeth Lee (including her office staff), Peter Cain (including his office staff), Jeremy Hanson (including his office staff), Andrew Barr (including his office staff) relating to allegations of a conflict of interest involving the former and current ACT Commissioner for Fair Trading. This includes correspondence (letters, emails including attachments), file notes, draft media releases, media releases from 1 October 2022 to 9 July 2023.

2. Any correspondence referencing any actual or intended legal proceedings, including any preliminary discovery proceedings, including any attached documents, any complaints including any attached documents, that makes reference to the former and current commissioner for fair trading, either personally or by Statutory position, and the Territory as a respondent, from Curtis/Cardin, Eastwoods legal, Moulis legal, Pink Frosting, 86 candles, Trustee for 86 Candles, Lollypotz. - up to the date of completion of the FOI request

3. Any other correspondence (including attachments) that makes reference to the former and current commissioner for fair trading, either personally or by Statutory position, and the Territory as a respondent, from Curtis/Cardin, Eastwoods legal, Moulis legal, Pink Frosting, 86 candles, Trustee for 86 Candles, Lollypotz. - up to the date of completion of the FOI request.”

And a further clarification:

“4. All correspondence from Curtis/ Carden/ Eastwood legal/ Moulis Legal to from Rattenbury and any attachments. And to/ from Rattenbury to any of the listed MLAs on this matter. Excluding the material already released under CMTEDDFOI 2023-161.”

Decision Maker

The request was transferred to the office of Minister Rattenbury as the most suitable entity to fulfil your request. Minister Rattenbury has authorised me to make determinations on requests under the FOI Act for this office.

Identification of documents and decision on access

Staff have conducted searches for documents relating to your request. I have identified 6 documents eligible for release under the FOI Act. These are listed in Schedule 1. I have reviewed the documents and decided that 1 can be released in full and 5 partially. The documents released to you are provided in Schedule 2.

I note, as per your request, that documents already released under CMTEDDFOI 2023-161 are not included in this release, and are available at:

https://www.cmtedd.act.gov.au/data/assets/pdf_file/0008/2249873/2023-161_Redacted_reduced-file-size.pdf

Exemptions

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2

I have included below the factors relevant to my decision on access.

Contrary to the public interest information under schedule 1 of the Act

I have determined that some of the material within the scope of your request contains information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act.

1.2 Information subject to legal professional privilege

Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.

Documents 2 and 4 contain information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege. This information can only be released if the parties involved agree to waive that privilege. The parties have not waived privilege.

1.1B Information in possession of integrity commission or inspector of the integrity commission, and

1.14 Law enforcement or public safety information

Section 1.1B provides that disclosure of information is taken to be contrary to the public interest if the information is in the possession of the Commission or the Inspector unless it is of an administrative nature (e.g. management and administration of the Integrity Commission). I note that some of the material within

Document 6, contains direct correspondence with the ACT Integrity Commission. This information where it is not purely administrative has been redacted.

Documents 3, 4 and 6 are also partially redacted under section 1.14. These emails include information considered 'law enforcement or public safety information', the disclosure of which would or could reasonably be expected to: result in a person being subject to a serious act of harassment or intimidation (clause 1.14(1)(d); and: prejudice the impartial adjudication of a matter before a court or tribunal (clause 1.14(1)(e).

Public interest test

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process I must consider factors favouring disclosure and non-disclosure.

2.1 Factors favouring disclosure in the public interest

(a) disclosure of the information could reasonably be expected to do any of the following:

- (ii) contribute to positive and informed debate on important issues or matters of public interest;
- (viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

I have placed considerable weight on the above, noting that this a matter of public interest and may provide some contextual and background information.

I did not identify factors favouring non-release under the public interest test. Material that comes under Schedule 1 is already taken to not be in the public interest to release and therefore no subject to the public interest test. I have also marked some information as a duplicate or as out of scope.

Already publicly available

Another document in scope, the Mills Oakley Review, has been subject to a previous FOI decision (CMTEDDFOI-182). I rely on the previous decision to release that document partially. The Mills Oakley Review can be accessed at this address:

https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0005/2254541/2023-182.pdf

Open Access Information

The FOI Act requires that details regarding your request such as your application, decision notices, and information released to you, be recorded in the Ministerial FOI disclosure log and be made publicly available no earlier than three working days after a decision on access has been given to you. Please be aware that while no personal information will be included in the published information all other information will be published on [Ministerial FOI Disclosure - Open Access Information \(act.gov.au\)](https://www.act.gov.au/ministerial-foi-disclosure-open-access-information)

Your right of review

Complaints to the Ombudsman

Under section 54 of the FOI Act, you may complain to the Ombudsman about administrative matters relating to the processing of your FOI request. There is no fee for making a complaint. The Ombudsman will conduct an independent investigation into your complaint. You can contact the Ombudsman by telephone on 1300 362 072 or in writing:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal

You can seek an independent review of this decision by the ACT Civil and Administrative Tribunal.

The Tribunal is an independent body. It can review on their merits a large number of decisions made by ACT Government ministers, officials and statutory authorities.

The Tribunal has the power to decide any matter in relation to the request which could have been decided or could now be decided by the respondent to the original request for access. The Tribunal may not grant access to a document which it is satisfied is exempt.

An application must be made within 28 days from receiving the Notice of Decision.

To apply to the Tribunal for a review you can obtain an application form at www.acat.act.gov.au. The postal address of the Tribunal is:

ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA ACT 2601

Telephone: (02) 6207 1740

<http://www.acat.act.gov.au>

Yours sincerely,



Matthew Georgeson
Chief of Staff
Office of Minister Shane Rattenbury
14 September 2023

Schedule of identified documents

Ref No	Page number	Description	Date	Status	Reason exemption	Open access release status
1	1	Re: Mills Oakley Review 25 March 2021	22 May 2023	Full release		Yes
2	3	Fwd: Mills Oakley Review 25 March 2021	24 May 2023	Partial release	Sch 1 1.2	Yes
3	6	Fwd: Review by Mills Oakley	30 May 2023	Partial release	Sch 1 1.14	Yes
4	8	Fwd: Review by Mills Oakley	1 June 2023	Partial release	Sch 1 1.2 Sch 1 1.14	Yes
5	18	FINALISED Combined QTB Pack for Minister Rattenbury - May/June sittings	31 May 2023	Partial release	Out of scope	Yes
6	22	Email	19 June 2023	Partial release	Sch 1 1.14 Sch 1 1.1B	Yes
Total						
No of Docs						
6						

From: Georgeson, Matthew
Sent: Monday, 22 May 2023 9:27 PM
To: Rattenbury, Shane
Cc: RATTENBURY
Subject: Re: Mills Oakley Review 25 March 2021

FYI Shane I have asked for the directorate to assist with a reply.

If you read the exec summary of this external review you'll see its conclusions that Access Canberra acted appropriately in its investigation, though could have done better pressing Pink Frosting for more information/cooperation so that the investigation was more timely.

Also, I completed the FOI for this matter on Friday.

Matt

On 22 May 2023, at 9:34 am, RATTENBURY <RATTENBURY@act.gov.au> wrote:

Morning Shane and Matt,

Please see below and attached.

Thanks,
Amy

From: Louise Curtis <louiselollypotz@gmail.com>
Sent: Monday, 22 May 2023 7:48 AM
To: RATTENBURY <RATTENBURY@act.gov.au>
Subject: Mills Oakley Review 25 March 2021

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi Shane,

Please find attached Mills Oakley Review of your Government's conduct in my matter. This is really interesting. Can you please explain the following:-

1. Why is it that this Review was commissioned, just days after our Realm Hotel meeting when Snowden clearly stated I was guilty of a crime? Did he suddenly realise I wasn't guilty of a crime, but still needed to cover his behind?
2. How is it that this Review refers to 65 complaints as at February 2019, when pursuant to Supreme Court orders the ACT Government were compelled to provide these complaints and couldn't? Where are these 65 complaints?

3. How is it that this Review refers to 300 complaints overall in the matter, when pursuant to Supreme Court orders the ACT Government were compelled to provide these complaints and couldn't? Where are these 300 complaints?

4. Was the Reviewer provided with the November 2018 and June 2019 letters addressed to me, thanking me for my engagement and closing your file?

So we are clear, the findings and premise of this entire Review are based on lies. This is fact, because you cannot provide the complaints.

You do know Shane don't you, that ACCC complaints are referred back to the states and territories, so your Government has doubled the complaints across the board - yes, you've counted each complaint (noting that we have only received a handful) - but you have counted each of your alleged complaints that you sought from old customers, twice. So I take it, what we have here is a Review which has cost taxpayers tens of thousands of dollars (which was meant to be made public but wasn't - can't imagine why???) based on false information. Yes Shane, this is correct, your Government has spent tens of thousands of dollars on a review of their conduct and provided the Reviewer with false information.

You seriously are the gift that keeps on giving.

I look forward to your immediate response. If I don't receive a response, then you should be prepared for next steps.

Kind regards,

Louise Curtis

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

0475 605 862

<Mills Oakley Report 25 March 2021.pdf>

From: Georgeson, Matthew
Sent: Wednesday, 24 May 2023 4:34 PM
To: Rattenbury, Shane
Cc: RATTENBURY
Subject: Fwd: Mills Oakley Review 25 March 2021

Shane, how about we send this reply (slightly altered to refer to you in 3rd person) from the rattenbury inbox instead?

Matt

Begin forwarded message:

From: "Rynehart, Josh" <Josh.Rynehart@act.gov.au>
Date: 24 May 2023 at 4:30:22 pm AEST
To: "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>, "Pryce, David" <David.Pryce@act.gov.au>
Subject: RE: Mills Oakley Review 25 March 2021

OFFICIAL

Hi Matt

Proposed response for the Minister's consideration [Sch 1 1.2](#)

Dear Ms Curtis

Thank you for your email.

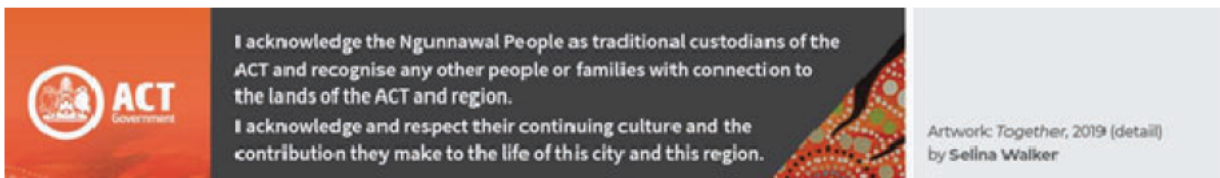
Noting that this matter is the subject of legal proceedings and that you, the Commissioner and the Territory are legally represented, it is not appropriate for me to comment.

Any further correspondence in relation to these issues should be forwarded directly to the ACT Government Solicitor.

More than happy to discuss.

Josh Rynehart (He/Him)
A/g Chief Operating Officer
Access Canberra
Ph: 6205 3740
Email: josh.rynehart@act.gov.au





From: Georgeson, Matthew <Matthew.Georgeson@act.gov.au>
Sent: Monday, 22 May 2023 9:24 PM
To: Pryce, David <David.Pryce@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>
Subject: Fwd: Mills Oakley Review 25 March 2021

Hello David and Josh. Correspondence regarding this matter I send straight to you. Could you please assist with an appropriate reply from the minister?

Thank you
Matt

Begin forwarded message:

From: RATTENBURY <RATTENBURY@act.gov.au>
Date: 22 May 2023 at 9:34:44 am AEST
To: "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>, "Rattenbury, Shane" <Shane.Rattenbury@act.gov.au>
Subject: FW: Mills Oakley Review 25 March 2021

Morning Shane and Matt,

Please see below and attached.

Thanks,
Amy

From: Louise Curtis <louiselollypotz@gmail.com>
Sent: Monday, 22 May 2023 7:48 AM
To: RATTENBURY <RATTENBURY@act.gov.au>
Subject: Mills Oakley Review 25 March 2021

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You seriously are the gift that keeps on giving.

I look forward to your immediate response. If I don't receive a response, then you should be prepared for next steps.

Kind regards,

Louise Curtis

louise.curtis@lollypotz.com.au

louiselollypotz@gmail.com

0475 605 862

From: Georgeson, Matthew
Sent: Tuesday, 30 May 2023 1:38 PM
To: Rattenbury, Shane
Subject: Fwd: Review by Mills Oakley

I have asked AC for advice again. I don't think you sent the previous reply they drafted for you?
Matt

Begin forwarded message:

From: RATTENBURY <RATTENBURY@act.gov.au>
Date: 30 May 2023 at 11:03:10 am AEST
To: "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>
Subject: FW: Review by Mills Oakley

From: Louise Curtis <louiselollypotz@gmail.com>
Sent: Tuesday, 30 May 2023 10:45 AM
To: RATTENBURY <RATTENBURY@act.gov.au>
Subject: Review by Mills Oakley

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Hi Shane,

I refer to my earlier email in relation to the Mills Oakley Review. It's evident you don't want to answer the questions, but running off to the ACTGS to issue a stern warning does not preclude me from questioning you about the Review, nor does it provide you with an excuse to not answer the questions.

The document hasn't been shared with anybody outside the ACT Government, and you are the Minister for Fair Trading, therefore you are entirely responsible - so you really do have an obligation to answer those questions - which are not unreasonable in the circumstances.

You propagate transparency and integrity, yet there seems to be a transparency issue here (yet again).

Sch 1 1.14

Kind regards,

Louise

Louise Curtis

louiselollypotz@gmail.com

0475 605 862

From: [Georgeson, Matthew](#)
To: [Rattenbury, Shane](#)
Subject: Fwd: Review by Mills Oakley
Date: Thursday, 1 June 2023 11:31:51 AM
Attachments: [RE Review by Mills Oakley.msg](#)
[image001.png](#)
[image002.png](#)

Shane, see the attached. Sch 1 1.2

Matt

Sch 1 1.2

From: Rynehart, Josh <Josh.Rynehart@act.gov.au>
Sent: Thursday, June 1, 2023 10:43 am
To: Georgeson, Matthew <Matthew.Georgeson@act.gov.au>; Pryce, David <David.Pryce@act.gov.au>
Subject: RE: Review by Mills Oakley

OFFICIAL: Sensitive - Legal Privilege

Hi Matt

Apologies for the delay in responding, Sch 1 1.2

I propose a response along the lines of:

Dear Ms Curtis,

Thank you for email your email. As I have previously indicated it is appropriate for you to communicate directly the Government Solicitor's Office on this matter.

More than happy to discuss.

Josh Rynehart (He/Him)
Acting Chief Operating
Access Canberra
Ph: 6205 3740
Email: josh.rynehart@act.gov.au



From: Georgeson, Matthew <Matthew.Georgeson@act.gov.au>
Sent: Tuesday, 30 May 2023 1:36 PM
To: Pryce, David <David.Pryce@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>
Subject: Fwd: Review by Mills Oakley

Again seeking advice, thank you
Matt

Begin forwarded message:

From: RATTENBURY <RATTENBURY@act.gov.au>
Date: 30 May 2023 at 11:03:10 am AEST
To: "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>
Subject: FW: Review by Mills Oakley

From: Louise Curtis <louiselollypotz@gmail.com>
Sent: Tuesday, 30 May 2023 10:45 AM
To: RATTENBURY <RATTENBURY@act.gov.au>
Subject: Review by Mills Oakley

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The document hasn't been shared with anybody outside the ACT Government, and you are the Minister for Fair Trading, therefore you are entirely responsible - so you really

do have an obligation to answer those questions - which are not unreasonable in the circumstances.

You propagate transparency and integrity, yet there seems to be a transparency issue here (yet again).

Sch 1 1.14

Kind regards,

Louise

Louise Curtis

louiselollypotz@gmail.com

0475 605 862

Sch 1 1.2

Sch 1 1.2

Duplicate

Duplicate

Sch 1 1.2

Sch 1 1.2

Sch 1 1.2

Sch 1 1.2

From: EPSDD DLO
Sent: Wednesday, 31 May 2023 1:34 PM
To: McGuire, Anna; Grant, Rachel; Huggett, Jenna
Cc: Georgeson, Matthew; AGDLO; ACDLO; EPSDD DLO
Subject: FINALISED Combined QTB Pack for Minister Rattenbury - May/June sittings
Attachments: Combined QTB Pack - Minister Rattenbury.pdf

Importance: High

OFFICIAL

Hi Anna,

Confirming the combined QTB pack for Minister has just been finalised to include updated QTBs for:

1. Out of scope
2. Consumer Affairs (Access Canberra)
3. Out of scope

A copy of the pack is attached – also saved to Minister’s QTB folder on the drive, you can access them here: [ZZ MINISTER QTBS\2023\06. May-Jun](#)

@Grant, Rachel @Huggett, Jenna please provided the link/pack to your advisers 😊

Thanks everyone!

Kind regards
Michelle

Michelle O’Donnell | Directorate Liaison Officer

Office of Minister Yvette Berry MLA | Office of Minister Shane Rattenbury MLA

Phone: (02) 6205 5591 or MS Teams | Email: michelle.o’donnell@act.gov.au

Environment, Planning and Sustainable Development Directorate | ACT Government

Level 4 Snow Gum, 480 Northbourne Avenue Dickson ACT 2602 | GPO Box 158 Canberra ACT 2601

www.environment.act.gov.au | www.planning.act.gov.au

I acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

QUESTION TIME BRIEF

Portfolio/s: Chief Minister
Consumer Affairs

ISSUE: Pink Frosting

Chief Minister Talking Points

[If asked about conflict of interest](#)

Minister for Consumer Affairs Talking Points

[General Talking points](#)

[If asked about legal proceedings by 86 Candles Pty Limited \(ACN 607 264 586\)](#)

[If asked about administrative decisions made by the Commissioner for Fair Trading](#)

[If asked about reviews into, or findings of, the investigation](#)

Talking points:

Chief Minister

[If asked about conflict of interest](#)

- I am advised that a potential conflict of interest was declared by the Commissioner for Fair Trading in November 2021, and a management strategy was implemented by Access Canberra in response.
- I understand that the Attorney-General sought advice from the Head of Service about this matter.
- Conflicts of interests are managed in accordance with the CMTEDD Conflict of Interest policy.

Minister for Consumer Affairs

- The business name “*Pink Frosting*” was deregistered in August 2020.
- As a result of this, Access Canberra closed its investigation of consumer complaints made about Pink Frosting under Australian Consumer Law.

Cleared as complete and accurate: 26/05/2023
Cleared for public release by: Deputy Director-General Ext: 79898
Contact Officer name: Josh Rynehart / Alex McPherson Ext: 53740 / 74412
Lead Directorate: Chief Minister, Treasury and Economic Development
Objective Ref: 23/50582

[Return to Main Index](#)

QUESTION TIME BRIEF

- Following a request from my office, the Head of Service provided me with advice on 6 February 2023 about the actions of Access Canberra in managing this matter. In particular, the Head of Service advised that the actions of Access Canberra have been appropriate.
- An Acting Commissioner appointment remains in place to manage any conflict of interest situations.

[If asked about legal proceedings by 86 Candles Pty Limited \(ACN 607 264 586\)](#)

- I am restricted in what I can say for a range of legal and privacy reasons.
- What I can say is that:
 - there was a matter filed in the ACT Civil and Administrative Tribunal (ACAT) by 86 Candles Pty Limited in November 2021, however, ACAT dismissed those proceedings on 3 December 2021; and
 - another matter was filed in the ACT Supreme, in which 86 Candles Pty Limited was granted preliminary discovery from the Territory to documents relating to the investigation of consumer complaints about Pink Frosting. It is not known whether and if so what proceedings may subsequently be commenced by Ms Curtis or 86 Candles Pty Limited or the claims or relief that might be sought in any such proceedings, and therefore it would be inappropriate to make any further comment at this time.

[If asked about administrative decisions made by the Commissioner for Fair Trading](#)

- Decisions made by the Commissioner, or their delegates, are made under the provisions of the relevant law.
- If an applicant is not satisfied with an administrative decision, they can seek review in the ACAT, or through other review mechanisms such as the Ombudsman.

[If asked about reviews into, or findings of, the investigation](#)

- Noting current legal proceedings and that further proceedings are anticipated, I am limited in what I can say.
- I remain committed to transparency in Government and will provide what information I can. In that context, it would be more appropriate that I take those questions on notice for now.

Cleared as complete and accurate: 26/05/2023
Cleared for public release by: Deputy Director-General Ext: 79898
Contact Officer name: Josh Rynehart / Alex McPherson Ext: 53740 / 74412
Lead Directorate: Chief Minister, Treasury and Economic Development
Objective Ref: 23/50582

[Return to Main Index](#)

Key Information

- Pink Frosting was an ACT-based retailer selling party supplies through an online store and a shopfront in Canberra.
- The investigation commenced following consumer complaints being lodged with Australian Consumer Law regulators throughout Australia.
- Complaints largely involved allegations of failing to supply goods within a reasonable time.
- [Fair Trading \(Australian Consumer Law\) Acting Commissioner Appointment 2023 \(No 1\) | Notifiable instruments](#)

Cleared as complete and accurate: 26/05/2023
Cleared for public release by: Deputy Director-General Ext: 79898
Contact Officer name: Josh Rynehart / Alex McPherson Ext: 53740 / 74412
Lead Directorate: Chief Minister, Treasury and Economic Development
Objective Ref: 23/50582

[Return to Main Index](#)

From: [Georgeson, Matthew](#)
To: [Pryce, David](#); [Rynehart, Josh](#)
Subject: Sch 1 1.14
Date: Monday, 19 June 2023 9:47:00 AM
Attachments: Sch 1 1.14

Hi both, FYI

Begin forwarded message:

From: RATTENBURY <RATTENBURY@act.gov.au>
Date: 19 June 2023 at 9:20:40 am AEST
To: "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>, "Rattenbury, Shane" <Shane.Rattenbury@act.gov.au>
Subject: Sch 1 1.14

Sch 1 1.1B

Sch 1 1.1B

Sch 1 1.1B

Duplicate