

Schedule 2.2(a)(ii)

via email: Schedule 2.2(a)(ii)

Dear Schedule 2.2(a)(ii)

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by Major Projects Canberra (MPC) on 8 August 2022, in which you sought access to:

The subject line of all final ministerial briefs from 10th of May 2022 to 10th of June 2022 generated for or directed to any ACT Government Minister.

This request includes, wherever possible, the date of the brief, the internal reference, position of authority it was written by, and which Minister it was addressed to.

This request includes briefs prepared for Question Time, but not for Estimates or Annual Reports.

Authority

I am an Information Officer appointed by the Chief Projects Officer under section 18 of the Act to deal with access application made under Part 5 of the Act.

Decision on access

Searches were completed for relevant documents and thirty eight (38) documents were identified that fall within the scope of your request.

I have decided to release full details of the thirty five (35) ministerial briefs identified.

I have decided to withhold the title of three (3) ministerial briefs identified.

I have included as **Attachment A** to this decision the list of details of the ministerial briefs. As requested, this list includes dates, positions of authority the briefs were written by and addressed to and generated for or directed to.

My decision is detailed further in the following statement of reasons.

Statement of Reasons

In making my decision on disclosing government information, I must identify all relevant factors in schedule 2 of the FOI Act and determine, on balance, where the public interest lies. In reaching my access decision, I have taken the following into account:

Factors favouring disclosure in the public interest (Schedule 2, Section 2.1)

- Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability; and

- Section 2.1(a) (ii) contribute to positive and informed debate on important issues or matters of public interest.

The release of this information may possibly help to create positive and informed discussions. I consider that disclosing the contents of the information sought could reasonably contribute to discussion of public affairs. I am satisfied that these are relevant considerations favouring disclosure in this case, and in the interests of enhancing open discussion, I afford them significant weight.

Factors favouring non-disclosure (Schedule 1 Information disclosure of which is taken to be contrary to the public interest)

- Section 1.2 Information subject to legal professional privilege

The title of one (1) brief contains information that is considered to be contrary to the public interest under section 1.2 of Schedule 1 of the act. The title of this brief contains information that was created in the context of a legal practitioner-client relationship and was made for the purpose giving or obtaining legal advice and preparing for and use in a current legal proceeding. It is therefore exempt from release.

- Section 1.6 Cabinet information;

I have released full details of most of the Cabinet Meeting Briefs and Cover Briefs provided to ACT Government Ministers as they contain either purely factual information, or do not materially reveal Cabinet Deliberations. Two (2) briefs however contain information in their titles that would reveal details of Cabinet Deliberations still underway and not yet publicly declared.

The purpose of Cabinet information being exempt from release is to maintain the confidentiality of the Cabinet process and to uphold the principle of collective ministerial responsibility. This exemption was discussed in *The Commonwealth v Northern Land Council [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993)*. Paragraph 6 of the decision, states that:

“... it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.”

The titles of the withheld briefs could be reasonably considered to reveal Cabinet deliberation. I have decided therefore that it is not in the public interest to release details of these briefs.

Factors favouring non-disclosure in the public interest (Schedule 2, Section 2.2)

- Section 2.2(a)(xi) prejudice trade secrets, business affairs or research of an agency or person.

I have also considered the impact of disclosing information which relates to business affairs. In the case of *Re Mangan and The Treasury {2005} AATA 898* the term 'business affairs' was interpreted as meaning 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'. Schedule 2 section 2.2(a)(xi) allows for government information to be withheld from release if disclosure of the information could reasonably be expected to prejudice the trade secrets, business affairs or research of an agency or person.

A title of one (1) brief contains sensitive commercial information of a third-party. I am satisfied that release of this information would have significant impact on the business affairs of the entity identified as this information is not publicly available. Accordingly, I have decided this information is not in the public interest to release this information.

Online Publishing – Disclosure Log

Under section 28 of the Act, MPC maintains an official online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the MPC disclosure log three (3) to ten (10) working days after the date of the decision. Your personal contact details will not be published. You may view the MPC disclosure log at <https://www.act.gov.au/majorprojectscanberra>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the MPC disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
CANBERRA CITY ACT 2601

Telephone: (02) 6207 1740

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

Should you have any queries in relation to your request, please contact me by telephone on (02) 6205 5288 or email MPCFOI@act.gov.au.

Yours sincerely,

Schedule 2.2(a)(ii)

Information Officer
Major Project Canberra
29 August 2022

Ministerial Briefs 10th of May 2022 to 10th of June 2022

Date	Subject Line	Written By	Addressed to, generated for or directed to.
16/05/2022	Name the crane arrangements brief	Duncan Edghill, CPO, MPC	Stephen-Smith
24/05/2022	Territory-held financial contingency expenditure authorisations	Duncan Edghill, CPO, MPC	Stephen-Smith
26/05/2022	Woden contract award arrangements brief	Duncan Edghill, CPO, MPC	Steel
24/05/2022	Capital works program strategic reprofiling	Duncan Edghill, CPO, MPC	Barr
2/06/2022	Staying Ahead: State Infrastructure Strategy 2022-2042	Duncan Edghill, CPO, MPC	Barr
2/06/2022	Private Building Cladding Scheme	Duncan Edghill, CPO, MPC	Vassarotti
12/05/2022	Light Rail Stage 2 - Agency Costs	Duncan Edghill, CPO, MPC	Steel
Schedule 1.6	Schedule 1.6	Schedule 1.6	[Redacted]
09/05/2022	NATCAP comments re CHE Project_May 2022 (A34162315)	Duncan Edghill, CPO, MPC	Stephen-Smith
Schedule 2.2(a)(xi)	Schedule 2.2(a)(xi)	Schedule 2.2(a)(xi)	[Redacted]
18/05/2022	NATCAP Courtesy Bus	Duncan Edghill, CPO, MPC	Stephen-Smith
Schedule 1.2 & 1.6	Schedule 1.2 & 1.6	Schedule 1.2 & 1.6	[Redacted]
2/06/2022	Launceston st closure	Duncan Edghill, CPO, MPC	Steel
27/05/2022	LR Construction Works June 2022	Duncan Edghill, CPO, MPC	Steel

6/06/2022	RLC PSP Intersection Design	Duncan Edghill, CPO, MPC	Steel
8/06/2022	Canberra Theatre Business Case	Duncan Edghill, CPO, MPC	Cheyne
10/05/2022	Canberra Theatre Centre Project – Project Activities Update for 2021/22 and beyond	Duncan Edghill, CPO, MPC	Cheyne

Question Time Briefs 1-2 June 2022

Subject Line	Written By	Addressed to, generated for or directed to.
Light Rail City to Woden –overall facts and figures	Duncan Edghill, CPO, MPC	Steel
Upcoming construction activity	Duncan Edghill, CPO, MPC	Steel
Raising London Circuit	Duncan Edghill, CPO, MPC	Steel
Early Works – utilities relocation	Duncan Edghill, CPO, MPC	Steel
Light Rail City to Woden – EPBC Referral	Duncan Edghill, CPO, MPC	Steel
LRS2 Design Contract	Duncan Edghill, CPO, MPC	Steel
Mawson Viability	Duncan Edghill, CPO, MPC	Steel
Community Consultation	Duncan Edghill, CPO, MPC	Steel
ACT Auditor-General's Report - Canberra Light Rail Stage 2A: Economic Analysis	Duncan Edghill, CPO, MPC	Steel
Construction Logistics and Community Safety (CLOCS)(NEW)	Duncan Edghill, CPO, MPC	Steel
CIT Woden Project – overall facts and figures	Duncan Edghill, CPO, MPC	Steel
Bus Layover and Ancillary Roadworks (Package 1)	Duncan Edghill, CPO, MPC	Steel
Woden Public Transport Interchange (Package 2)	Duncan Edghill, CPO, MPC	Steel
Closure of Callam Street	Duncan Edghill, CPO, MPC	Steel

Trees outside the Smith Family	Duncan Edghill, CPO, MPC	Steel
Woden CIT campus main works (Package 3)	Duncan Edghill, CPO, MPC	Steel
Block Zoning around CIT Woden and Interchange	Duncan Edghill, CPO, MPC	Steel
Response to COVID-19	Duncan Edghill, CPO, MPC	Steel
Cladding Remediation Q+A	Duncan Edghill, CPO, MPC	Vassarotti
Cladding Remediation	Duncan Edghill, CPO, MPC	Vassarotti
Canberra Theatre Centre Project	Duncan Edghill, CPO, MPC	Cheyne