



DPC20/0982

7 September 2020

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Freedom of information application

I refer to your application to the Department of the Premier and Cabinet (DPC) under DPC Circular PC031, 'Disclosure of Cabinet documents 10 years or older', seeking access to:

Date	Departmental Docket Number	Cabinet Submission Title	Minister
16/10/2008	MFI08/018	Port Bonython - Bulk Commodities Export Port Facility	Hon Patrick Conlon

One document was identified as answering the terms of your application and I have determined to refuse access to this document in full.

This submission consists of information containing the business, professional, commercial and financial affairs of both the Government of South Australia and a third party consortium for a venture that was to be undertaken in the construction of a facility that was not realised. Consideration is still being given to the viability of similar options for the construction of projects in this region of South Australia. Disclosure of this submission would adversely impact the Government's ability to hold effective discussions with companies operating in this area who would be involved in negotiations for the construction of a similar venture.

Some members of this consortium still have business operations in this area. Their commercial and financial information, which is reflected within this submission, still has a current and continuing value. This value would be diminished if revealed to their competitors. Further, businesses newer to the area would likely be less inclined to be forthcoming on updated proposals for a revised facility if they knew that information of this nature may be disclosed at a future time.

Transparency surrounding Government decision making and public scrutiny of infrastructure projects are strong public interest factor in release. On the other hand, the fact this venture was never realised and that projects of a similar nature are still being contemplated, which require assurance of confidentiality and the free flow of information, argue strongly in favour of non-disclosure. I consider that the latter factors

outweigh the former and have determined to exempt this information in full pursuant to clause 7(1)(c) of the *Freedom of Information Act 1991*.

Exemptions

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.*

Right to internal review

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the *Freedom of Information Act 1991* (the Act). Pursuant to subsection 29(2) of the Act, your application must:

- be in writing
- be addressed to the principal officer, and
- be lodged at an office of DPC, or emailed to DPCFOIUnit@dpc.sa.gov.au within 30 days after the day on which you receive this letter or within such further time as the principal officer of DPC may allow.

If you have any questions in relation to this matter, please contact Damian Gilbert, Freedom of Information Officer, on 8429 5489 or at damian.gilbert@sa.gov.au.

Yours sincerely



Eamonn Maloney
Accredited FOI Officer
Office of the Chief Executive