



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2020/026

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Andrew

DECISION BY: Peter Rush
Assistant Secretary
Parliamentary and Government Branch

By email: foi+request-6119-1bd5857d@righttoknow.org.au

Dear Andrew

On 2 February 2020, you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) in the following terms:

Under the FOI Act 1982, I request the report by PM&C Secretary Phil Gaetjens into ministerial conflicts of interest and the Ministerial Code of Conduct with regards to the Sport Australia Community Sports Infrastructure Program, as supplied to the Prime Minister in February 2020.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Relevant documents

The Department has identified one document relevant to the scope of your request (**requested document**).

Decision

I have decided to refuse access to the document, in full, on the basis that the document is exempt under sections 34(1) and 34(3) of the FOI Act (Cabinet documents).

In making this decision, I have had regard to the following material:

- the FOI request;
- the document relevant to the FOI request;
- the FOI Act;
- the Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982* (**FOI Guidelines**).

Reasons

Cabinet documents (section 34 of the FOI Act)

Section 34 of the FOI Act provides that:

- (1) *A document is an exempt document if:*
- (a) *both of the following are satisfied:*
- (i) *it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;*
- (ii) *it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or*
- ...
- (3) *A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.*

Having regard to the content of the requested document and my knowledge of its provenance, I am satisfied that the requested document meets the requirements of sections 34(1)(a) and 34(3) the FOI Act. This is on the basis that the requested document:

- was submitted to the Governance Committee of Cabinet;
- was brought into existence for the dominant purpose of submission for consideration by the Governance Committee of Cabinet; and
- was considered by the Governance Committee of Cabinet, such that its disclosure would reveal Cabinet deliberations which have not been disclosed.

Accordingly, I have decided that the requested document is exempt from release, in full, under sections 34(1) and 34(3) of the FOI Act.

Processing and access charges

I have decided not to impose charges to process this request.

Review rights

Information about your rights of review can be found on the website of the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Complaint rights

Information about your complaint rights can be found on the web site of the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

A handwritten signature in black ink, appearing to read 'Peter Rush', with a stylized, cursive script.

Peter Rush
Assistant Secretary
Parliamentary and Government Branch

3 March 2020