



FOI reference: IR 22-220

[REDACTED]  
Via: [REDACTED]

Dear [REDACTED]

### INTERNAL REVIEW - NOTICE OF DECISION UNDER THE FREEDOM OF INFORMATION ACT

This letter refers to your request for internal review of decision FOI 22-210 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**the Department**).

#### Authority

I am an officer authorised by the Secretary to make decisions about access to documents in the possession of the Department in accordance with subsection 23(1) of the *Freedom of Information Act 1982* (FOI Act). Pursuant to s54C(2) of the FOI Act, I confirm that I am not the person who made the original decision.

#### Background

On 11 June 2022, you requested the following:

*"...Copy of National Collecting Institutions Sustainability Review by KPMG"*

On 11 July 2022, you were provided with a decision to defer access to documents requested under section s21(1)(b) of the FOI Act.

On 2 August 2022, you requested a review of the decision to defer access to documents.

#### Decision

I have made a decision to vary the original decision made by the original decision maker.

In accordance with section 34(1)(d), I have decided to refuse access to documents subject to your request.

#### Reason of Decision

Section 34 [Cabinet process]

The Cabinet exemption in section 34 of the FOI Act is designed to protect the confidentiality of the Cabinet process and to ensure the principle of collective ministerial responsibility (fundamental to the Cabinet system) is not undermined.

- (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; and*
    - (ii) *it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or*
  - (b) *it is an official record of the Cabinet; or*

- (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or*
- (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.*
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.*
- (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*

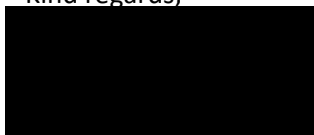
The *National Collecting Institutions Sustainability Review by KPMG* is in draft form and it was brought into existence for the dominant purpose of submission for consideration by the Cabinet, and is proposed by a Minister to be so submitted. Therefore, I am satisfied that the document you have requested is exempt under section 34(1)(d).

I have taken the following material into account in making my decision:

- the content of the document that falls within the scope of your request;
- the original decision on access;
- sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth;
- the following provision of the FOI Act relevant to my decision:
  - section 34 - Cabinet documents; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

Should you have any enquiries concerning this matter, please do not hesitate to contact the FOI Team on [FOI@infrastructure.gov.au](mailto:FOI@infrastructure.gov.au).

Kind regards,



**Anne-Louise Dawes**  
Authorised Decision Maker  
Assistant Secretary – Creative Industries  
Office for the Arts  
31 August 2022