

WALL Ruth

From: VINE-CAMP Kerryn
Sent: Thursday, 12 November 2020 7:43 AM
To: HALLINAN David; WALL Ruth; SPENCE Pip
Cc: s47F
Subject: Re: Political Alert - Leppington Triangle land (FED) [SEC=OFFICIAL]

OFFICIAL

Thanks Dave,

Ruth will the assurance team submit these?

Happy to discuss.

Regards

KVC

Kerryn Vine-Camp CPHR

First Assistant Secretary | Major Transport and Infrastructure Projects Division
Department of Infrastructure, Transport, Regional Development &
Communications

t: 02 6274 7664 | js47F

e: Kerryn.vine-camp@infrastructure.gov.au w: www.infrastructure.gov.au

GPO Error! Hyperlink reference not valid.

The department proudly acknowledges the Traditional Owners and Custodians of Australia, and their continuing connections to the land, waters and communities. We pay our respects to them and to their Elders past, present and emerging.

OFFICIAL

From: "HALLINAN David" <David.Hallinan@infrastructure.gov.au>
Date: Thursday, 12 November 2020 at 7:34:59 am
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, "SPENCE Pip" <Pip.Spence@infrastructure.gov.au>, "VINE-CAMP Kerryn" <Kerryn.VINE-CAMP@infrastructure.gov.au>
Subject: Fwd: Political Alert - Leppington Triangle land (FED) [SEC=OFFICIAL]

OFFICIAL

In case this hasn't come through the parliamentary channels yet.
D

OFFICIAL

From: "CCH Parliament" <politicalalert@cch.com.au>
Date: Thursday, 12 November 2020 at 7:17:55 am

To: "politicalalert@cch.com.au" <politicalalert@cch.com.au>

Subject: Political Alert - Leppington Triangle land (FED)

Please find attached:

LEPPINGTON TRIANGLE LAND (FED)

Notice of motion - Senators Watt and Sterle - Order for the Production of Documents

316X1404

Total number of pages 1

SUPPORT: politicalalert@cch.com.au or 02 6273 2070 MAILBOX: <http://www.cchparliament.com.au>

WALL Ruth

From: HALLINAN David
Sent: Thursday, 12 November 2020 7:59 AM
To: SPENCE Pip; WALL Ruth; VINE-CAMP Kerryn
Subject: Re: Political Alert - Leppington Triangle land (FED) [SEC=OFFICIAL]

OFFICIAL

Agreed

OFFICIAL

From: "SPENCE Pip" <Pip.Spence@infrastructure.gov.au>
Date: Thursday, 12 November 2020 at 7:48:08 am
To: "HALLINAN David" <David.Hallinan@infrastructure.gov.au>, "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, "VINE-CAMP Kerryn" <Kerryn.VINE-CAMP@infrastructure.gov.au>
Subject: Re: Political Alert - Leppington Triangle land (FED) [SEC=OFFICIAL]

OFFICIAL

Suggest we discuss with Simon and s47F

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WALL Ruth

From: HALLINAN David
Sent: Thursday, 12 November 2020 8:01 AM
To: SPENCE Pip; WALL Ruth; VINE-CAMP Kerryn
Subject: Re: Political Alert - Leppington Triangle land (FED) [SEC=OFFICIAL]

OFFICIAL

We're booked at 10 with the boss. And have 47F at 930. Might be simplest timing as not due until 18 Nov.

D

OFFICIAL

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Date: Thursday, 12 November 2020 at 7:48:08 am
To: "HALLINAN David" <David.Hallinan@infrastructure.gov.au>, "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, "VINE-CAMP Kerryn" <Kerryn.VINE-CAMP@infrastructure.gov.au>
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WALL Ruth

From: VINE-CAMP Kerryn
Sent: Thursday, 12 November 2020 9:28 AM
To: Legislation
Cc: s47F HALLINAN David; SPENCE Pip; WALL Ruth
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Thanks for the heads up s47F

Regards

Kerryn Vine Camp

First Assistant Secretary, Major Transport and Infrastructure Projects
 Department of Infrastructure, Transport, Regional Development & Communications



Australian Government
 Department of Infrastructure, Transport
 Regional Development and Communications

t: 02 6274 7664 | m: s47F
 e: Kerryn.vine-camp@infrastructure.gov.au w: www.infrastructure.gov.au
 GPO Box 594, Canberra ACT 2601

The Department acknowledges the traditional owners of Country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their Elders both past and present. 🇦🇺

OFFICIAL

From: Legislation <Legislation@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 9:05 AM
To: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>
Cc: Legislation <Legislation@infrastructure.gov.au>; s47F
Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good morning Kerryn

Please see the email below and attachments.

Please note that there is no formal requirement to provide the documents as yet, however if agreed, the documents are required by 18 November 2020.

Regards

s47F

s47F

Legislation Liaison Officer |
Ministerial and Parliamentary
Services
Department of Infrastructure,
Transport, Regional Development
and Communications

s47F

infrastructure.gov.au

| w www.infrastructure.gov.au
GPO Box 594, Canberra ACT 2601



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

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OFFICIAL

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>s47F

s47F

s47F

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good evening

Please note: this motion has **NOT** been considered by the Senate yet. It may not get agreed to, this email is to provide you with a heads up.

Please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table **documents referred to in Auditor General Report No. 9 2020-21 Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport** (details in the attached). This motion will be moved by Senators Watt and Sterle tomorrow, Thursday 12 November 2020 – the Senate has **not yet considered the motion**.

If agreed by the Senate, the Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by **no later than 5.30pm, Wednesday 18 November 2020**.

Once the documents have been gathered and approved by the Senator for tabling, they should be accompanied by a letter to the Clerk of the Senate (Mr Richard Pye) or the President of the Senate (Senator the Hon Scott Ryan), indicating that the documents are the Senator's response to the Order for the Production of Documents.

Alternatively, the Senator can write to the President of the Senate outlining their reasons for not being in a position to comply with the order. Please note, letters regarding non-compliance with the OPD cannot be sent to the Clerk.

Four copies of the material should be provided to the Senate sub-programming office (room SG105 (outside of the government entrance to the Senate chamber) on sitting days, or room SG25 on non-sitting days). In addition, as a matter of courtesy, **one copy** should be delivered to the requesting Senators office.

Attached is a one page information sheet on Orders for the Production of Documents, but please contact me if you have any questions.

Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

s47F

finance.gov.au

@finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F

rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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WALL Ruth

From: WALL Ruth
Sent: Thursday, 12 November 2020 12:12 PM
To: VINE-CAMP Kerry
Cc: s47F Legislation s47F
Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]
Attachments: Information Sheet - Orders for the Production of Documents - as at 05112019.docx; OPD - Senators Watt and Sterle - 861.pdf

OFFICIAL

Kerry

The Assurance Taskforce will take the lead on this one. We have been asked to consider the approach taken to a recent RJIP order.

We will keep you updated.

Ruth

OFFICIAL

From: s47F @infrastructure.gov.au>
Sent: Thursday, 12 November 2020 11:54 AM
To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Cc: s47F @infrastructure.gov.au>
Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Hi Ruth

Please find following/attached.

s47F

Director, Ministerial and Parliamentary
Services
Governance, Parliamentary and Integrity
Branch
People, Governance, Parliamentary and
Communication Division
Department of Infrastructure,
Transport, Regional Development and
Communications

s47F
e:



Australian Government

**Department of Infrastructure, Transport,
Regional Development and Communications**

s47F [redacted]@infrastructure.gov.au
GPO Box 594, Canberra ACT 2601

*The department proudly acknowledges the Traditional Owners and Custodians of Australia, and their continuing connections to the land, waters and communities.
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Sent: Thursday, 12 November 2020 9:05 AM
To: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>
Cc: Legislation <Legislation@infrastructure.gov.au>; s47F [redacted]@infrastructure.gov.au;
s47F [redacted]@infrastructure.gov.au
Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good morning Kerryn

Please see the email below and attachments.

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Regards
s47F [redacted]

s47F [redacted]
Legislation Liaison Officer |
Ministerial and Parliamentary
Services
Department of Infrastructure,
Transport, Regional Development
and Communications

s47F [redacted]
[redacted]@infrastructure.gov.au
| w www.infrastructure.gov.au
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From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>
Sent: Wednesday, 11 November 2020 6:53 PM
To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F [redacted]@treasury.gov.au;
Legislation <Legislation@infrastructure.gov.au>; s47F [redacted]@infrastructure.gov.au;
s47F [redacted]@infrastructure.gov.au; s47F [redacted]

s47F

s47F

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good evening

Please note: this motion has **NOT** been considered by the Senate yet. It may not get agreed to, this email is to provide you with a heads up.

Please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table documents referred to in Auditor General Report No. 9 2020-21 *Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport* (details in the attached). This motion will be moved by Senators Watt and Sterle tomorrow, Thursday 12 November 2020 – the Senate has **not yet considered the motion**.

If agreed by the Senate, the Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by **no later than 5.30pm, Wednesday 18 November 2020**.

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Attached is a one page information sheet on Orders for the Production of Documents, but please contact me if you have any questions.

Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F finance.gov.au
- @finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate
Department of the Prime Minister and Cabinet
SG 119, Parliament House, Canberra
t: 02 6277 7597 | m: s47F
e: rachael.clarke@dpmc.gov.au | www.dpmc.gov.au

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**Senator Watt
Senator Sterle**

Notice of Motion
(Order for Production of Documents)

**Senator Watt
Senator Sterle**

Mr President

I give notice that, on the next day of sitting, I shall move that there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by **no later than 5:30pm 18 November 2020**, the following documents referred to in Auditor General Report No.9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport:*

The 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 which are referenced in paragraph 4.1 on page 57 of the ANAO report (including any annotations of decision makers):

"The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019."


Senator Murray Watt


Senator Glenn Sterle

LODGED
11/11/20
TB.

11 November 2020

Senate - Orders for the Production of Documents (OPDs)

What is an OPD	<ul style="list-style-type: none"> The Senate may make an order for the Government to table specified information/documents at or by a particular time on a particular day. An order can be made as a 'one off' request for documents or may be a permanent order, known as an 'order of continuing effect' (where there may be annual or biannual deadlines). These orders are known as Orders for the Production of Documents (OPDs) or 'an order for returns' and are a common means by which senators seek information. Responses to OPDs are sometimes referred to as 'returns to order'.
Authority	<ul style="list-style-type: none"> Senate Standing Order 164
Request for an OPD	<ul style="list-style-type: none"> A notice of motion will be lodged and moved by a senator, and determined during 'Discovery of Formal Business' on any sitting day, ie after Question Time on Mondays to Wednesdays or before Question Time on Thursdays. If agreed, the Clerk will write to the Leader of the Government in the Senate and the relevant Minister in the Senate to inform them of the Order. The Senate PLO will also give the Minister's office a heads up (by email) as soon as the motion is agreed in the Chamber to ensure as much notice as possible is given.
Responding to an OPD	<ul style="list-style-type: none"> Decisions about the release of documents are up to the relevant Minister/s. There has been general acceptance by the Senate that there is some information held by the Government which ought not to be disclosed, but consideration should be given to past practice and the sanctions the Senate is able to impose. There are two options: <ul style="list-style-type: none"> Comply in full Partial or nil response - Ministers must then outline the reason/s for non-compliance and any claims for public interest immunity. If complying in full, letters should be addressed to the Clerk or the President. If not complying or complying in part only, letters should be addressed to the President. Where the Minister is a House Minister, the response must be from the Minister representing the Minister in the Senate. Where an OPD impacts on a number of portfolios, one Minister's office must coordinate a whole of government response. It is then essential that the response is cleared by all Ministers affected. Responses should be unclassified as they will be tabled in the chamber and available on the APH website.
Lodgement and copy requirements	<ul style="list-style-type: none"> Four copies of the response should be delivered to the Senate Table Office in SG105 (adjacent to the Government entrance to the Senate Chamber) on sitting days, or in SG25 on non-sitting days, by the time agreed by the Senate. In addition, as a matter of courtesy, one copy should be delivered to the Senator who moved the motion (specified in the email from the Senate PLO). Where the documents are to be provided to a Senate Committee, one copy should be provided to the Committee Secretary (either hard copy or electronic) – contact details will be in the email from the Senate PLO and are on committee websites.
Possible sanctions for non-compliance with an OPD	<ul style="list-style-type: none"> If a minister does not comply or provide a satisfactory response within 30 days of the deadline, a senator may after Question Time ask the relevant minister for an explanation and may move to take note of the explanation or move a motion in relation to the minister's failure to provide an answer or satisfactory explanation. Possible sanctions for non-compliance by a Minister include: <ul style="list-style-type: none"> a censure motion against the Minister, a ban on legislation from the Minister's portfolio for a period, establishment of a Senate select committee to inquire into and report on matters related to an OPD, a resolution of contempt of the Senate with penalties applied in accordance with the <i>Parliamentary Privileges Act 1987</i>.
Questions	<p>Rachael Clarke, Senate Parliamentary Liaison Officer rachael.clarke@pmc.gov.au or SenatePLO@pmc.gov.au 02 6277 7597 or s4/F</p>

WALL Ruth

From: VINE-CAMP Kerryn
Sent: Thursday, 12 November 2020 12:15 PM
To: WALL Ruth
Cc: s47F [redacted] Legislation; s47F [redacted]
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Noted.

Thank you

Kerryn Vine-Camp

First Assistant Secretary, Major Transport and Infrastructure Projects
Department of Infrastructure, Transport, Regional Development & Communications



Australian Government
Department of Infrastructure, Transport
Regional Development and Communications

t: 02 6274 7664 | s47F [redacted]
e: Kerryn.vine-camp@infrastructure.gov.au w: www.infrastructure.gov.au
GPO Box 594, Canberra ACT 2601

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<Legislation@infrastructure.gov.au>; s47F [redacted] @infrastructure.gov.au> s47F [redacted]
s47F [redacted] infrastructure.gov.au> s47F [redacted] @infrastructure.gov.au>
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s47F

Director, Ministerial and Parliamentary
Services
Governance, Parliamentary and Integrity
Branch
People, Governance, Parliamentary and
Communication Division
Department of Infrastructure,
Transport, Regional Development and
Communications

s47F

.s47F

infrastructure.gov.au

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Legislation Liaison Officer |
Ministerial and Parliamentary
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Department of Infrastructure,
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Legislation <Legislation@infrastructure.gov.au>s47F

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- [redacted]@finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate
Department of the Prime Minister and Cabinet
SG 119, Parliament House, Canberra
t: 02 6277 7597 | m: s47F [redacted]
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Sent: Thursday, 12 November 2020 12:25 PM
To: VINE-CAMP Kerryn; HALLINAN David
Cc: s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

It was carried. We will work with Hillary as most of the briefs are classified.

OFFICIAL

From: WALL Ruth
Sent: Thursday, 12 November 2020 12:23 PM
To: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>; HALLINAN David <David.Hallinan@infrastructure.gov.au>
Cc: s47F Legislation
<Legislation@infrastructure.gov.au>; s47F
s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]
Importance: High

OFFICIAL

This motion is being considered shortly in the Senate

OFFICIAL

From: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 12:15 PM
To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Cc: s47F Legislation
<Legislation@infrastructure.gov.au>; s47F
s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Noted.

Thank you

Kerryn Vine-Camp

First Assistant Secretary, Major Transport and Infrastructure Projects
Department of Infrastructure, Transport, Regional Development & Communications

t: 02 6274 7664 | m: s47F

e: Kerryn.vine-camp@infrastructure.gov.au w: www.infrastructure.gov.au

GPO Box 594, Canberra ACT 2601

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Cc: s47F Legislation

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s47F

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OFFICIAL

Kerryn

The Assurance Taskforce will take the lead on this one. We have been asked to consider the approach taken to a recent RJIP order.

We will keep you updated.

Ruth

OFFICIAL

From: s47F

Sent: Thursday, 12 November 2020 11:54 AM

To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>

Cc: s47F

Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

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Hi Ruth

Please find following/attached.

s47F

s47F

Director, Ministerial and Parliamentary
Services
Governance, Parliamentary and Integrity
Branch
People, Governance, Parliamentary and
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Department of Infrastructure,
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s47F

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Regards

s47F

s47F

Legislation Liaison Officer |
Ministerial and Parliamentary
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Department of Infrastructure,
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Sent: Wednesday, 11 November 2020 6:53 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F

Legislation <Legislation@infrastructure.gov.au>; s47F

s47F

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- s47F finance.gov.au
- finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate
Department of the Prime Minister and Cabinet
SG 119, Parliament House, Canberra
t: 02 6277 7597 | m: s47F
e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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Cc: s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Thanks s47F

Yes we saw it too. We're standing by.

s47F

OFFICIAL

From: DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 12:34 PM
To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F
Legislation <Legislation@infrastructure.gov.au>; s47F
s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Hi s47F

Please note the Senate has agreed the motion.

12:23:38 PM

General business—*notified to the President for discovery today*

862*—Senators Watt and Sterle—Order for production of documents—Leppington tr

I'm awaiting advice from the Office on the preferred direction of response to the order.

Thanks

s47F

Departmental Liaison Officer
Office of the Hon Alan Tudge MP
Minister for Population, Cities and Urban Infrastructure

s47F

OFFICIAL

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Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

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e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

WALL Ruth

From: WALL Ruth
Sent: Thursday, 12 November 2020 12:52 PM
To: MANSON Hilary
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

s47F from the Assurance Taskforce will email them to you shortly.

OFFICIAL

From: MANSON Hilary <Hilary.Manson@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 12:42 PM
To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Can you send me the 10 briefings? thanks

OFFICIAL

From: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 12:32 PM
To: MANSON Hilary <Hilary.Manson@infrastructure.gov.au>
Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Hi Hilary

The Senate just carried the attached motion regarding the production of documents.

Most of the documents are classified either Sensitive: Legal or Protected Sensitive: Cabinet.

Could you please call me when you are free

Thanks
Ruth

OFFICIAL

From: s47F

Sent: Thursday, 12 November 2020 11:54 AM

To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>

Cc: s47F

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- [redacted] finance.gov.au

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WALL Ruth

From: s47F
Sent: Thursday, 12 November 2020 1:24 PM
To: WALL Ruth
Cc: VINE-CAMP Kerryn; HALLINAN David
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

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FYI Tudge's Office has advised (message from advisers passed through DLO) that they are expecting the Department to comply fully with this order. I advised that we are aware of and actioning the request, and will be clearing our response through Hilary Manson (noting that most of the briefs are classified). I've also checked in with MPS re: process and requirements for tabling.

s47F

From: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Sent: Thursday, 12 November 2020 12:25 PM
To: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>; HALLINAN David <David.Hallinan@infrastructure.gov.au>
Cc: s47F
Subject: RE: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

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Thank you

Kerryn Vine-Camp

First Assistant Secretary, Major Transport and Infrastructure Projects
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Legislation

<Legislation@infrastructure.gov.au> s47F

s47F

Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Kerryn

The Assurance Taskforce will take the lead on this one. We have been asked to consider the approach taken to a recent RJIP order.

We will keep you updated.

Ruth

OFFICIAL

From: s47F

Sent: Thursday, 12 November 2020 11:54 AM

To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>

Cc: s47F

Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Hi Ruth

Please find following/attached.

s47F

Director, Ministerial and Parliamentary
Services
Governance, Parliamentary and Integrity
Branch
People, Governance, Parliamentary and
Communication Division
Department of Infrastructure,
Transport, Regional Development and
Communications

s47F

GPO Box 594, Canberra ACT 2601



Australian Government

**Department of Infrastructure, Transport,
Regional Development and Communications**

*The department proudly acknowledges the Traditional Owners and Custodians of Australia, and their continuing connections to the land, waters and communities.
We pay our respects to them and to their Elders past, present and emerging.*

OFFICIAL

From: Legislation <Legislation@infrastructure.gov.au>

Sent: Thursday, 12 November 2020 9:05 AM

To: VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>

Cc: Legislation <Legislation@infrastructure.gov.au>; s47F

s47F

Subject: FW: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good morning Kerryn

Please see the email below and attachments.

Please note that there is no formal requirement to provide the documents as yet, however if agreed, the documents are required by 18 November 2020.

Regards

s47F

Legislation Liaison Officer |
Ministerial and Parliamentary
Services
Department of Infrastructure,
Transport, Regional Development
and Communications

s47F

| w www.infrastructure.gov.au
GPO Box 594, Canberra ACT 2601



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Regional Development and Communications

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OFFICIAL

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F

Legislation <Legislation@infrastructure.gov.au>; s47F

s47F

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good evening

Please note: this motion has **NOT** been considered by the Senate yet. It may not get agreed to, this email is to provide you with a heads up.

Please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table documents referred to in Auditor General Report No. 9 2020-21 *Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport* (details in the attached). This motion will be moved by Senators Watt and Sterle tomorrow, Thursday 12 November 2020 – the Senate has not yet considered the motion.

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Attached is a one page information sheet on Orders for the Production of Documents, but please contact me if you have any questions.

Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F [redacted] nance.gov.au
- [redacted] finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

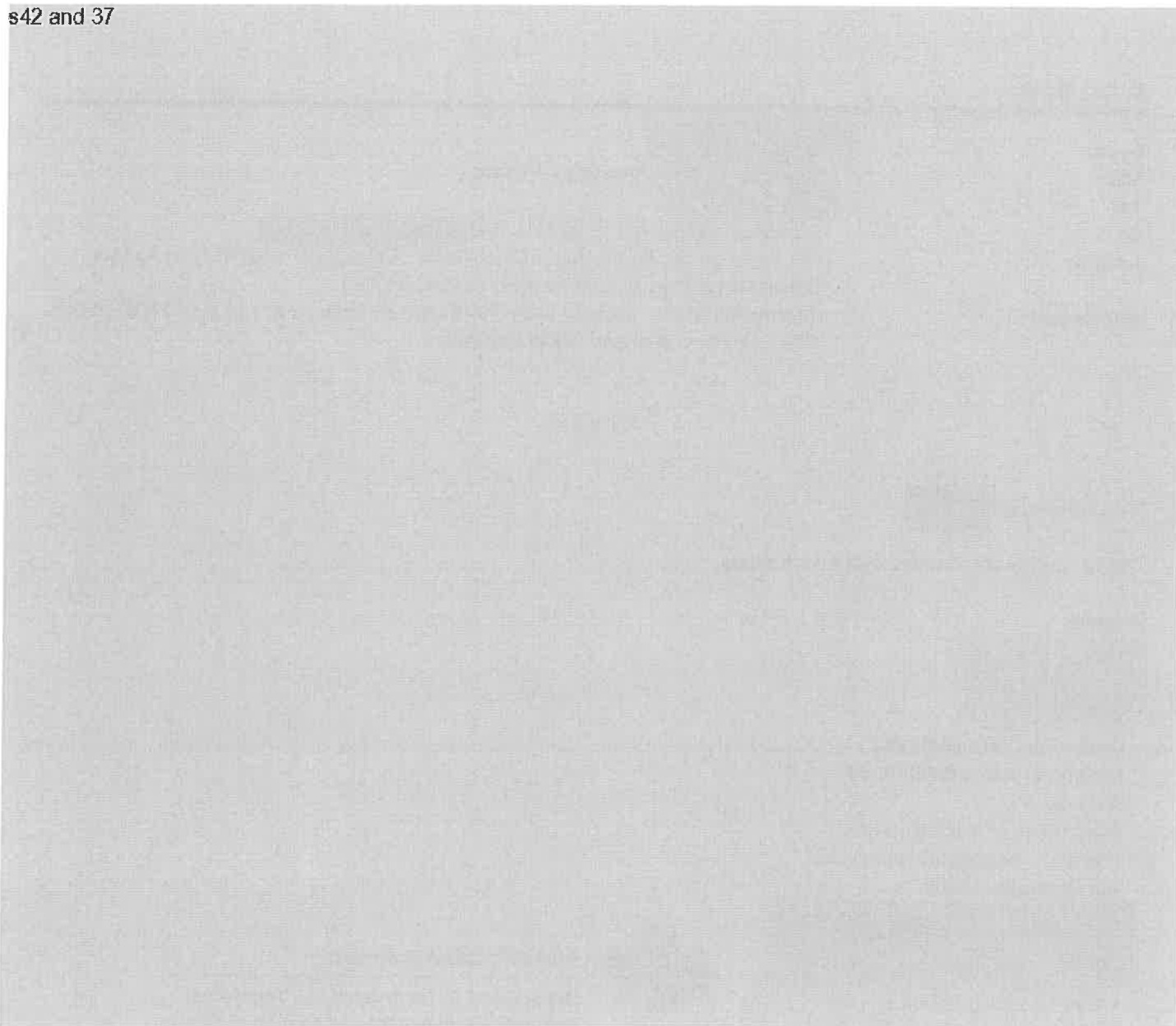
SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F [redacted]

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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s42



WALL Ruth

From: s47F
Sent: Thursday, 12 November 2020 2:10 PM
To: s47F
Cc: Legislation; s47F VALL Ruth; s47F
Subject: FW: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL]
Attachments: Information Sheet - Orders for the Production of Documents - as at 05112019.docx; OPD - Senators Watt and Sterle - 861.pdf

OFFICIAL

Good afternoon s47F

Please see the email below and attachments.

Regards

s47F

Legislation Liaison Officer |
 Ministerial and Parliamentary
 Services
 Department of Infrastructure,
 Transport, Regional Development
 and Communications

s47F

| w www.infrastructure.gov.au
 GPO Box 594, Canberra ACT 2601



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Department of Infrastructure, Transport,
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OFFICIAL

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>**Sent:** Thursday, 12 November 2020 2:03 PM**To:** DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F**Legislation** <Legislation@infrastructure.gov.au>; s47F

s47F

Subject: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL]

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- s47F [redacted] finance.gov.au
- [redacted] dfinance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | s47F [redacted]

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: dlo.tudge@infrastructure.gov.au; s47F [redacted] legislation@infrastructure.gov.au;

s47F [redacted]

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

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- s47F [redacted] [finance.gov.au](mailto:[redacted]@finance.gov.au)
- [redacted] [@finance.gov.au](mailto:[redacted]@finance.gov.au)

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate
Department of the Prime Minister and Cabinet
SG 119, Parliament House, Canberra
t: 02 6277 7597 | m: s47F [redacted]
✉ rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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Senate - Orders for the Production of Documents (OPDs)

What is an OPD	<ul style="list-style-type: none"> • The Senate may make an order for the Government to table specified information/documents at or by a particular time on a particular day. • An order can be made as a 'one off' request for documents or may be a permanent order, known as an 'order of continuing effect' (where there may be annual or biannual deadlines). • These orders are known as Orders for the Production of Documents (OPDs) or 'an order for returns' and are a common means by which senators seek information. • Responses to OPDs are sometimes referred to as 'returns to order'.
Authority	<ul style="list-style-type: none"> • Senate Standing Order 164
Request for an OPD	<ul style="list-style-type: none"> • A notice of motion will be lodged and moved by a senator, and determined during 'Discovery of Formal Business' on any sitting day, ie after Question Time on Mondays to Wednesdays or before Question Time on Thursdays. • If agreed, the Clerk will write to the Leader of the Government in the Senate and the relevant Minister in the Senate to inform them of the Order. • The Senate PLO will also give the Minister's office a heads up (by email) as soon as the motion is agreed in the Chamber to ensure as much notice as possible is given.
Responding to an OPD	<ul style="list-style-type: none"> • Decisions about the release of documents are up to the relevant Minister/s. There has been general acceptance by the Senate that there is some information held by the Government which ought not to be disclosed, but consideration should be given to past practice and the sanctions the Senate is able to impose. • There are two options: <ul style="list-style-type: none"> ○ Comply in full ○ Partial or nil response - Ministers must then outline the reason/s for non-compliance and any claims for public interest immunity. • If complying in full, letters should be addressed to the Clerk or the President. If not complying or complying in part only, letters should be addressed to the President. • Where the Minister is a House Minister, the response must be from the Minister representing the Minister in the Senate. • Where an OPD impacts on a number of portfolios, one Minister's office must coordinate a whole of government response. It is then essential that the response is cleared by all Ministers affected. • Responses should be unclassified as they will be tabled in the chamber and available on the APH website.
Lodgement and copy requirements	<ul style="list-style-type: none"> • Four copies of the response should be delivered to the Senate Table Office in SG105 (adjacent to the Government entrance to the Senate Chamber) on sitting days, or in SG25 on non-sitting days, by the time agreed by the Senate. In addition, as a matter of courtesy, one copy should be delivered to the Senator who moved the motion (specified in the email from the Senate PLO). • Where the documents are to be provided to a Senate Committee, one copy should be provided to the Committee Secretary (either hard copy or electronic) – contact details will be in the email from the Senate PLO and are on committee websites.
Possible sanctions for non-compliance with an OPD	<ul style="list-style-type: none"> • If a minister does not comply or provide a satisfactory response within 30 days of the deadline, a senator may after Question Time ask the relevant minister for an explanation and may move to take note of the explanation or move a motion in relation to the minister's failure to provide an answer or satisfactory explanation. • Possible sanctions for non-compliance by a Minister include: <ul style="list-style-type: none"> ○ a censure motion against the Minister, ○ a ban on legislation from the Minister's portfolio for a period, ○ establishment of a Senate select committee to inquire into and report on matters related to an OPD, ○ a resolution of contempt of the Senate with penalties applied in accordance with the <i>Parliamentary Privileges Act 1987</i>.
Questions	<p>Rachael Clarke, Senate Parliamentary Liaison Officer rachael.clarke@pmc.gov.au or SenatePLO@pmc.gov.au 02 6277 7597 or 647F</p>

**Senator Watt
Senator Sterle**

Notice of Motion
(Order for Production of Documents)

**Senator Watt
Senator Sterle**

Mr President

I give notice that, on the next day of sitting, I shall move that there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by **no later than 5:30pm 18 November 2020**, the following documents referred to in Auditor General Report No.9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport:*

The 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 which are referenced in paragraph 4.1 on page 57 of the ANAO report (including any annotations of decision makers):

"The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019."


Senator Murray Watt

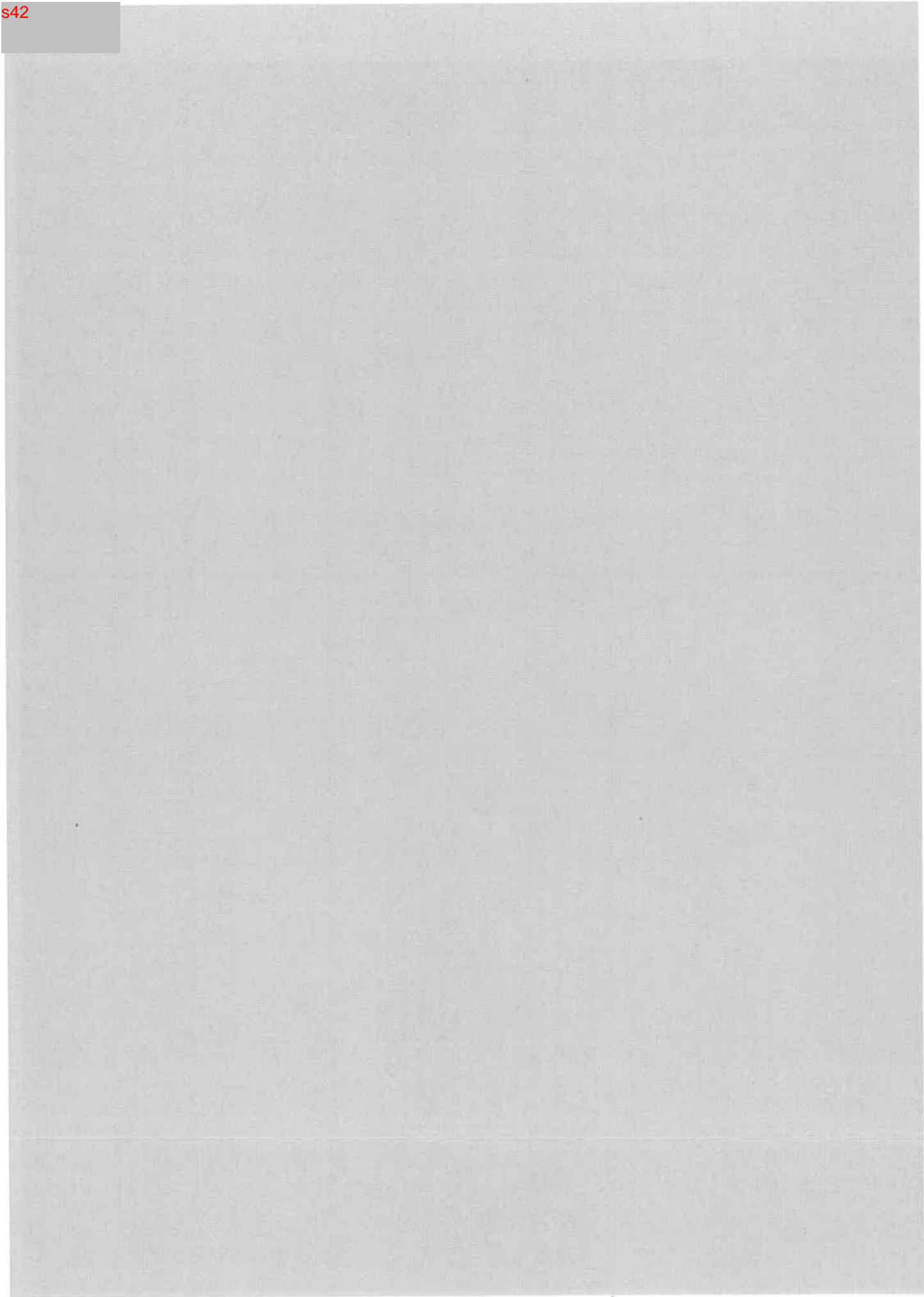

Senator Glenn Sterle

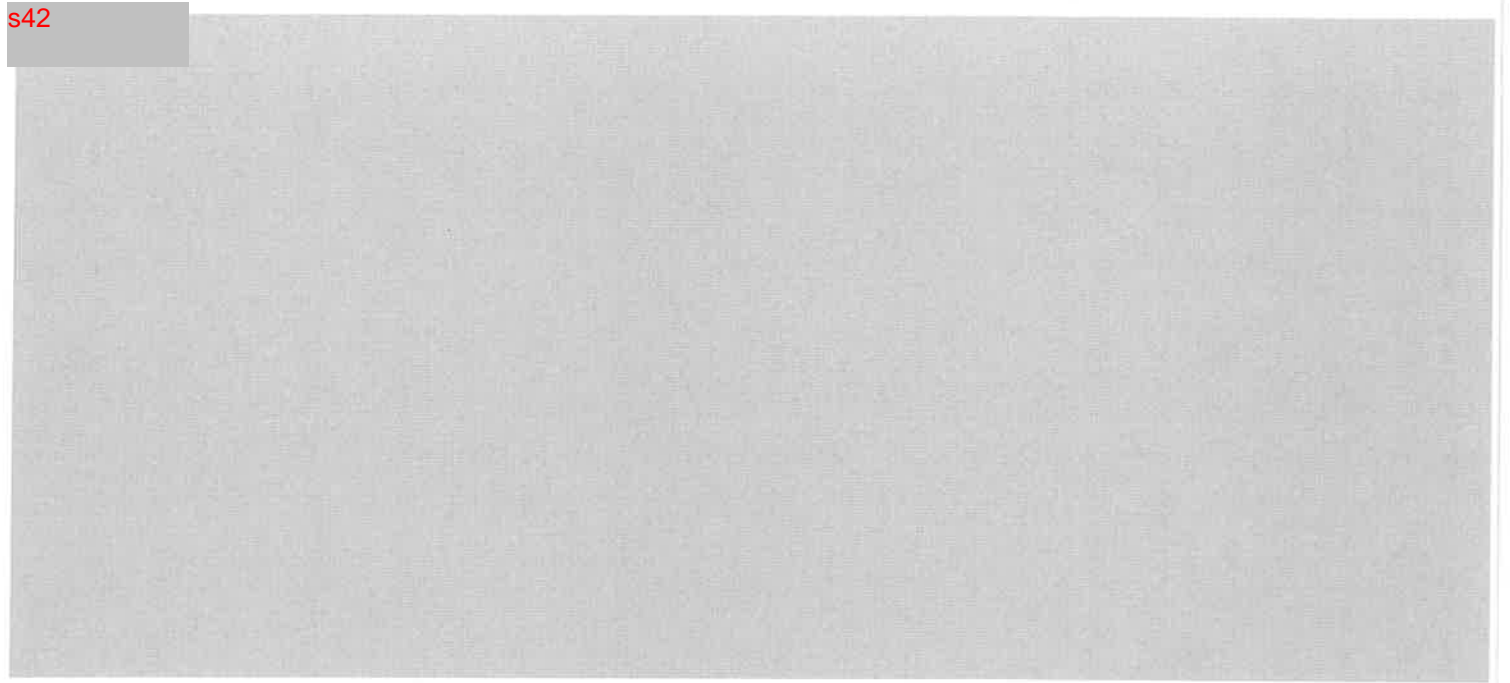
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TB.

11 November 2020

s42



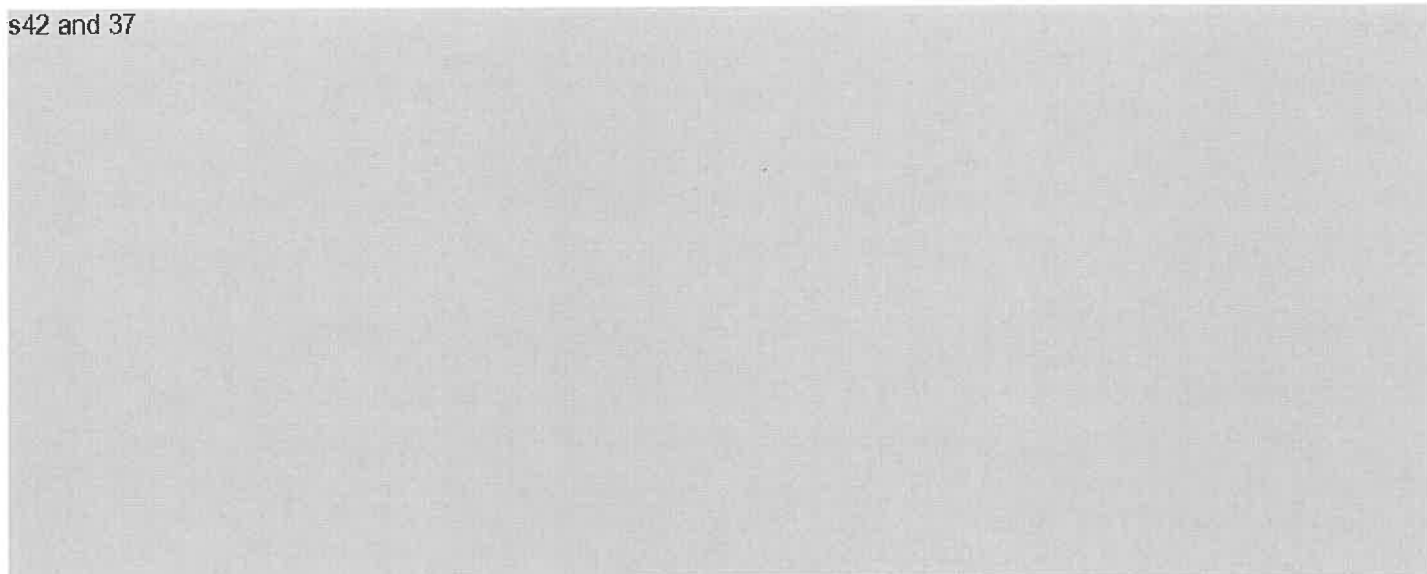




s42

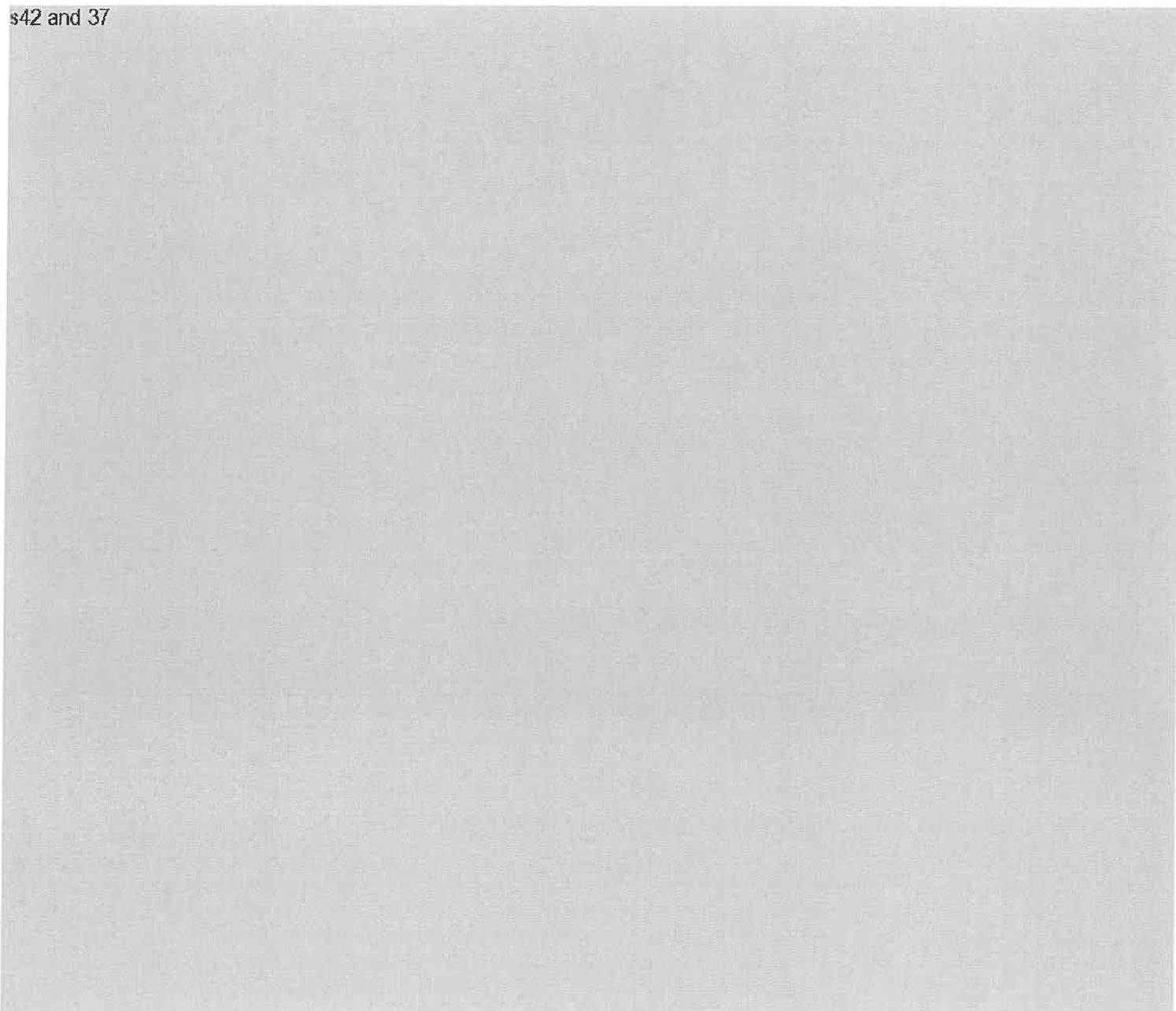


s42 and 37

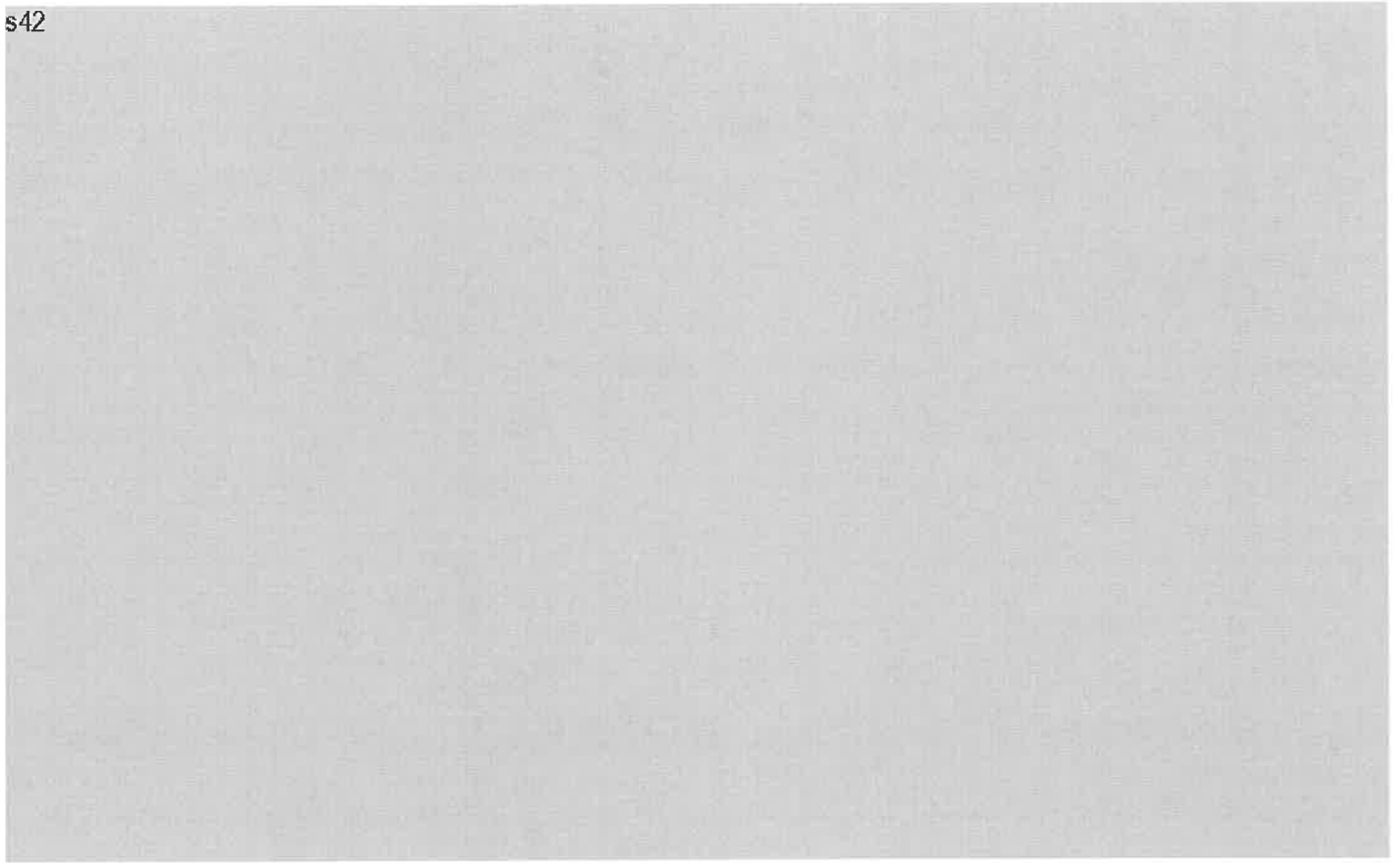


OFFICIAL:Sensitive

s42



s42



s47F

From: s47F
Sent: Friday, 13 November 2020 11:42 AM
To: DLO Tudge
Cc: s47F
Subject: RE: URGENT ACTION PLEASE: Template for Senator Cash letter [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

All good – I will draft text for the letter in the meantime ☺

OFFICIAL:Sensitive

From: DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Sent: Friday, 13 November 2020 11:42 AM
To: s47F DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Cc: s47F
Subject: RE: URGENT ACTION PLEASE: Template for Senator Cash letter [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Thanks s47F – I'm waiting to hear back from Minister Cash's DLOs on this one.

s47F

OFFICIAL:Sensitive

From: s47F
Sent: Friday, 13 November 2020 10:10 AM
To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Cc: s47F
Subject: URGENT ACTION PLEASE: Template for Senator Cash letter [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s47F

As discussed, grateful if you could please liaise with Senator Cash's Office to get a letterhead template for the Senate Order. As you are aware, Senator Cash is Minister Tudge's representative in the Senate so she will have to table whatever documents are released as part of the Senate Order (she will need to write to the President of the Senate). Please also copy s47F into this email as I will be signing off early afternoon.

Thanks,
s47F

OFFICIAL:Sensitive

WALL Ruth

From: WALL Ruth
Sent: Friday, 13 November 2020 2:18 PM
To: MANSON Hilary
Subject: Re: shall I come to your office? where are you? [SEC=OFFICIAL]

OFFICIAL

Can you please send me the text.

Thanks

Ruth

OFFICIAL

From: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>
Date: Friday, 13 November 2020 at 2:17:47 pm
To: "MANSON Hilary" <Hilary.Manson@infrastructure.gov.au>
Subject: Re: shall I come to your office? where are you? [SEC=OFFICIAL]

OFFICIAL

I will come to you as I don't have an office. Caught up with the Corporate move.

OFFICIAL

From: "MANSON Hilary" <Hilary.Manson@infrastructure.gov.au>
Date: Friday, 13 November 2020 at 2:16:53 pm
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>
Subject: shall I come to your office? where are you? [SEC=OFFICIAL]

OFFICIAL

Hilary Manson
AGS General Counsel – Infrastructure, Transport and Regional Development
Legal Services Branch (ITRD)
Finance, Legal & IT Division
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594, Canberra ACT 2601

s47F [REDACTED]
hilary.manson@infrastructure.gov.au | www.infrastructure.gov.au

OFFICIAL

WALL Ruth

From: DLO Tudge
Sent: Friday, 13 November 2020 2:20 PM
To: s47F
Cc: WALL Ruth; s47F DLO Tudge
Subject: FW: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL;Sensitive]
Attachments: Information Sheet - Orders for the Production of Documents - as at 05112019.docx; OPD - Senators Watt and Sterle - 861.pdf

OFFICIAL:Sensitive

Hi s47F

Thank you for your time on this issue yesterday and today.

As we discussed, Minister Tudge's Office would like a short update at the end of today on the likely direction of the Department's advice on this issue. This will enable them to begin conversations with other relevant ministerial offices. s47F is the relevant adviser here for this specific issue. s47F / s47F Just a phone call would be fine.

I understand you're also reaching out to the Senate PLO regarding arrangements for responding to the order. Very happy to assist with providing hardcopy of correspondence and/or documents to the PLO or Senate President's Office, depending on the outcome.

On the request to Minister Cash's Office for their letterhead template—they have advised their preference would be for the text of the response to be provided to them, and they will insert on Minister Cash's letterhead for her signature themselves.

Thanks

s47F

Departmental Liaison Officer
 Office of the Hon Alan Tudge MP
 Minister for Population, Cities and Urban Infrastructure
 s47F

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Thursday, 12 November 2020 2:03 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>; s47F
 Legislation <Legislation@infrastructure.gov.au>; s47F

s47F

s47F

s47F

Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

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- [redacted] [@finance.gov.au](mailto:[redacted]@finance.gov.au)

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F [redacted]

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: dlo.tudge@infrastructure.gov.au; s47F [redacted] legislation@infrastructure.gov.au;

s47F [redacted]

Cc: s47F [redacted]

s47F [redacted]

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- [@finance.gov.au](mailto:s47F@finance.gov.au)

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Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F

✉ rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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OFFICIAL: Sensitive

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Authority	<ul style="list-style-type: none"> <u>Senate Standing Order 164</u>
Request for an OPD	<ul style="list-style-type: none"> A notice of motion will be lodged and moved by a senator, and determined during 'Discovery of Formal Business' on any sitting day, ie after Question Time on Mondays to Wednesdays or before Question Time on Thursdays. If agreed, the Clerk will write to the Leader of the Government in the Senate and the relevant Minister in the Senate to inform them of the Order. The Senate PLO will also give the Minister's office a heads up (by email) as soon as the motion is agreed in the Chamber to ensure as much notice as possible is given.
Responding to an OPD	<ul style="list-style-type: none"> Decisions about the release of documents are up to the relevant Minister/s. There has been general acceptance by the Senate that there is some information held by the Government which ought not to be disclosed, but consideration should be given to past practice and the sanctions the Senate is able to impose. There are two options: <ul style="list-style-type: none"> Comply in full Partial or nil response - Ministers must then outline the reason/s for non-compliance and any claims for public interest immunity. If complying in full, letters should be addressed to the Clerk or the President. If not complying or complying in part only, letters should be addressed to the President. Where the Minister is a House Minister, the response must be from the Minister representing the Minister in the Senate. Where an OPD impacts on a number of portfolios, one Minister's office must coordinate a whole of government response. It is then essential that the response is cleared by all Ministers affected. Responses should be unclassified as they will be tabled in the chamber and available on the APH website.
Lodgement and copy requirements	<ul style="list-style-type: none"> Four copies of the response should be delivered to the Senate Table Office in SG105 (adjacent to the Government entrance to the Senate Chamber) on sitting days, or in SG25 on non-sitting days, by the time agreed by the Senate. In addition, as a matter of courtesy, one copy should be delivered to the Senator who moved the motion (specified in the email from the Senate PLO). Where the documents are to be provided to a Senate Committee, one copy should be provided to the Committee Secretary (either hard copy or electronic) – contact details will be in the email from the Senate PLO and are on committee websites.
Possible sanctions for non-compliance with an OPD	<ul style="list-style-type: none"> If a minister does not comply or provide a satisfactory response within 30 days of the deadline, a senator may after Question Time ask the relevant minister for an explanation and may move to take note of the explanation or move a motion in relation to the minister's failure to provide an answer or satisfactory explanation. Possible sanctions for non-compliance by a Minister include: <ul style="list-style-type: none"> a censure motion against the Minister, a ban on legislation from the Minister's portfolio for a period, establishment of a Senate select committee to inquire into and report on matters related to an OPD, a resolution of contempt of the Senate with penalties applied in accordance with the <i>Parliamentary Privileges Act 1987</i>.
Questions	<p>Rachael Clarke, Senate Parliamentary Liaison Officer rachael.clarke@pmc.gov.au or SenatePLO@pmc.gov.au 02 6277 7597 or 547F</p>

**Senator Watt
Senator Sterle**

Notice of Motion
(Order for Production of Documents)

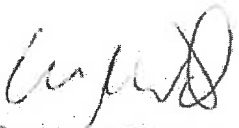
**Senator Watt
Senator Sterle**

Mr President

I give notice that, on the next day of sitting, I shall move that there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by **no later than 5:30pm 18 November 2020**, the following documents referred to in Auditor General Report No.9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport*:

The 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 which are referenced in paragraph 4.1 on page 57 of the ANAO report (including any annotations of decision makers):

"The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019."


Senator Murray Watt


Senator Glenn Sterle

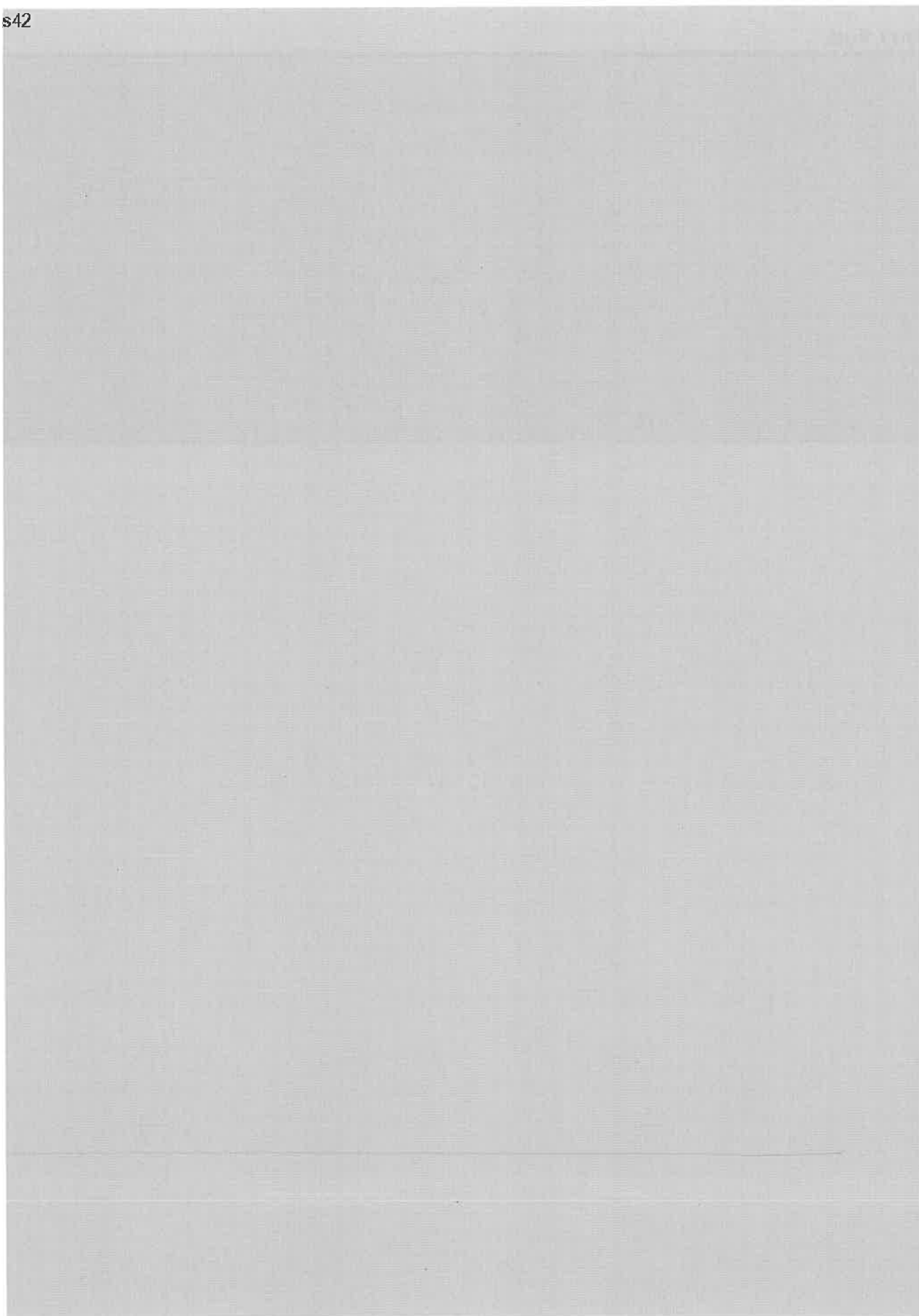
LODGED
11/11/20
TB.

11 November 2020

WALL Ruth

s42





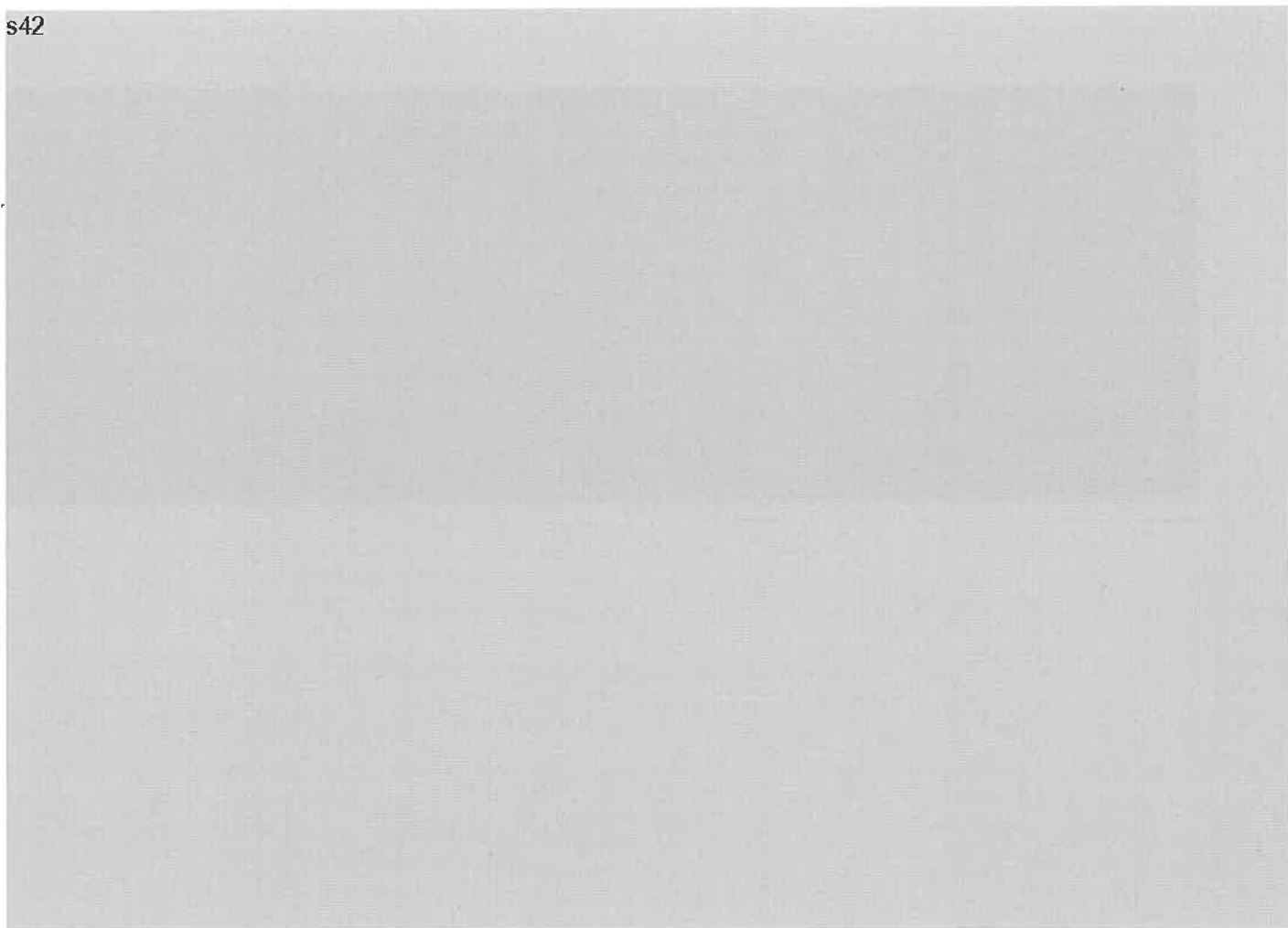
s42



s42



s42



WALL Ruth

From: WALL Ruth
Sent: Friday, 13 November 2020 2:40 PM
To: DLO Tudge s47F
Cc: s47F
Subject: Re: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s47F

I have sent a meeting invite to Rachel for 5pm. I will invite you as well.

Ruth

OFFICIAL:Sensitive

From: "DLO Tudge" <DLO.Tudge@infrastructure.gov.au>
Date: Friday, 13 November 2020 at 2:20:29 pm
To: s47F
Cc: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, s47F
s47F "DLO Tudge" <DLO.Tudge@infrastructure.gov.au>
Subject: FW: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s47F

Thank you for your time on this issue yesterday and today.

As we discussed, Minister Tudge's Office would like a short update at the end of today on the likely direction of the Department's advice on this issue. This will enable them to begin conversations with other relevant ministerial offices. s47F is the relevant adviser here for this specific issue. s47F
s47F Just a phone call would be fine.

I understand you're also reaching out to the Senate PLO regarding arrangements for responding to the order. Very happy to assist with providing hardcopy of correspondence and/or documents to the PLO or Senate President's Office, depending on the outcome.

On the request to Minister Cash's Office for their letterhead template—they have advised their preference would be for the text of the response to be provided to them, and they will insert on Minister Cash's letterhead for her signature themselves.

Thanks

s47F

Departmental Liaison Officer
Office of the Hon Alan Tudge MP
Minister for Population, Cities and Urban Infrastructure
s47F

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Thursday, 12 November 2020 2:03 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>;
Legislation <Legislation@infrastructure.gov.au>;

s47F

s47F

Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Subject: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL]

Good afternoon

As flagged, please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table **documents referred to in Auditor General Report No. 9 2020-21 Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport** (details in the attached). This motion was moved by Senators Watt and Sterle and agreed by the Senate this afternoon.

The Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by no later than **5.30pm, Wednesday 18 November 2020**. Please note the terms of the motion have been amended—please see Variation Document.

Once the documents have been gathered and approved by the Senator for tabling, they should be accompanied by a letter to the Clerk of the Senate (Mr Richard Pye) or the President of the Senate (Senator the Hon Scott Ryan), indicating that the documents are the Senator's response to the Order for the Production of Documents.

Alternatively, the Senator can write to the President of the Senate outlining their reasons for not being in a position to comply with the order. Please note, letters regarding non-compliance with the OPD cannot/not be sent to the Clerk.

Four copies of the material should be provided to the Senate sub-programming office (room SG105 (outside of the government entrance to the Senate chamber)) on sitting days, or room SG25 on non-sitting days). In addition, as a matter of courtesy, one copy should be delivered to the requesting Senators office.

Attached is a one page information sheet on Orders for the Production of Documents, but please contact me if you have any questions.

Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F finance.gov.au
- finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: dlo.tudge@infrastructure.gov.au; s47F legislation@infrastructure.gov.au;

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good evening

Please note: this motion has **NOT** been considered by the Senate yet. It may not get agreed to, this email is to provide you with a heads up.

Please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table documents referred to in Auditor General Report No. 9 2020-21 *Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport* (details in the attached). This motion will be moved by Senators Watt and Sterle tomorrow, Thursday 12 November 2020 – the Senate has **not yet considered the motion.**

If agreed by the Senate, the Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by **no later than 5.30pm, Wednesday 18 November 2020.**

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Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F [finance.gov.au](mailto:s47F@finance.gov.au)
- s47F@finance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

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OFFICIAL:Sensitive

WALL Ruth

From: s47F
Sent: Friday, 13 November 2020 2:44 PM
To: DLO Tudge
Cc: WALL Ruth; s47F
Subject: RE: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s47F

No problems! As discussed, I have spoken with the Senate PLO and the Senate Tabling Officer to clarify process and smooth the way for you next week.

- (a) We will provide text for Senator Cash in the PDMS record – Senate PLO said that some Senators prefer to do the letters themselves, so this is not unexpected.
- (b) We will look at the public interest immunity provisions in preparing our response and I understand that Ruth will contact s47F this afternoon to discuss the Department's proposed approach to the request, as requested.
- (c) For the actual tabling itself, this needs to be authorised by the President of the Senate (Parliament isn't sitting so he will need to authorise on 18 Nov that the response to the Order was presented out of sitting and it will be formally tabled on the next sitting day). For this to happen the Senate Tabling Officer, s47F needs to schedule a time with the President of the Senate on the 18th. I spoke with s47F to give him a heads up that this was coming – he said that he generally schedules time with the President of the Senate around 2pm to do authorisations, when required. This means that he will need our material by 1pm on the 18th at the latest.

What you will need to do: Once letters are signed, you will need to take the originals and four copies to s47F office (SG105 – adjacent to the Government entrance to the Senate Chamber). Before this, however, I would recommend giving s47F a call on Tuesday to advise him on how we are tracking and what time you are expecting to have the pack ready. I've told s47F that you will be our point person at APH, so he is expecting your call.

- (d) We will endeavour to have the MinSub, response and letters to you by COB Monday.

I will be on leave, but s47F and Ruth will be here if you need anything further.

Thanks again for your assistance.

Kind regards,

s47F

OFFICIAL:Sensitive

From: DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Sent: Friday, 13 November 2020 2:20 PM
To: s47F
Cc: WALL Ruth <Ruth.Wall@infrastructure.gov.au>; s47F
 DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Subject: FW: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL:Sensitive]

His47F

Thank you for your time on this issue yesterday and today.

As we discussed, Minister Tudge's Office would like a short update at the end of today on the likely direction of the Department's advice on this issue. This will enable them to begin conversations with other relevant ministerial offices. s47F is the relevant adviser here for this specific issue. s47F

s47F Just a phone call would be fine.

I understand you're also reaching out to the Senate PLO regarding arrangements for responding to the order. Very happy to assist with providing hardcopy of correspondence and/or documents to the PLO or Senate President's Office, depending on the outcome.

On the request to Minister Cash's Office for their letterhead template—they have advised their preference would be for the text of the response to be provided to them, and they will insert on Minister Cash's letterhead for her signature themselves.

Thanks

s47F

Departmental Liaison Officer
Office of the Hon Alan Tudge MP
Minister for Population, Cities and Urban Infrastructure

s47F

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Thursday, 12 November 2020 2:03 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>;

Legislation <Legislation@infrastructure.gov.au>; s47F

s47F

s47F

Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Subject: Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 (862) [SEC=OFFICIAL]

Good afternoon

As flagged, please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table **documents referred to in Auditor General Report No. 9 2020-21 Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport** (details in the attached). This motion was moved by Senators Watt and Sterle and agreed by the Senate this afternoon.

The Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by no later than **5.30pm, Wednesday 18 November 2020**. Please note the terms of the motion have been amended—please see Variation Document.

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Alternatively, the Senator can write to the President of the Senate outlining their reasons for not being in a position to comply with the order. Please note, letters regarding non-compliance with the OPD cannot/not be sent to the Clerk.

Four copies of the material should be provided to the Senate sub-programming office (room SG105 (outside of the government entrance to the Senate chamber)) on sitting days, or room SG25 on non-sitting days). In addition, as a matter of courtesy, one copy should be delivered to the requesting Senators office.

Attached is a one page information sheet on Orders for the Production of Documents, but please contact me if you have any questions.

Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F [redacted] ance.gov.au
- [redacted] inance.gov.au

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F [redacted]

e. rachael.clarke@pmc.gov.au | www.dpmc.gov.au

From: Senate Parliamentary Liaison Office <SenatePLO@pmc.gov.au>

Sent: Wednesday, 11 November 2020 6:53 PM

To: dlo.tudge@infrastructure.gov.au; s47F [redacted] legislation@infrastructure.gov.au;

s47F [redacted]

Subject: Heads Up - Order for the Production of Documents - Documents referred to in Auditor General Report No. 9 2020-21 [SEC=OFFICIAL]

OFFICIAL

Good evening

Please note: this motion has **NOT** been considered by the Senate yet. It may not get agreed to, this email is to provide you with a heads up.

Please see the attached motion requiring the Minister representing the Minister for Population, Cities and Urban Infrastructure (Senator Cash) to table documents referred to in Auditor General Report No. 9 2020-21 *Purchase of the 'Leppington Triangle' Land for Future Development of Western Sydney Airport* (details in the attached). This motion will be moved by Senators Watt and Sterle tomorrow, Thursday 12 November 2020 – the Senate has **not yet considered the motion.**

If agreed by the Senate, the Senator's office will receive a letter from the Clerk of the Senate outlining the order agreed by the Senate. The Senator is required to provide the specified documents by **no later than 5.30pm, Wednesday 18 November 2020.**

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Please ensure you consult with Senator Birmingham's office if the Order will not be complied with in part or full:

- s47F [REDACTED] [\[REDACTED\]@finance.gov.au](mailto:[REDACTED]@finance.gov.au)
- [REDACTED] [\[REDACTED\]@finance.gov.au](mailto:[REDACTED]@finance.gov.au)

Kind regards, Rachael

Rachael Clarke

Assistant Secretary | Parliamentary Liaison Officer for the Senate

Department of the Prime Minister and Cabinet

SG 119, Parliament House, Canberra

t: 02 6277 7597 | m: s47F [REDACTED]

e. rachael.clarke@dmc.gov.au | www.dpmc.gov.au

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OFFICIAL:Sensitive

WALL Ruth

From: s47F
Sent: Friday, 13 November 2020 2:46 PM
To: WALL Ruth; s47F
Subject: RE: PII letter re senate order.docx [SEC=OFFICIAL]

OFFICIAL

Yep – I can make this work.

OFFICIAL

From: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Sent: Friday, 13 November 2020 2:37 PM
To: s47F
s47F
Subject: Fwd: PII letter re senate order.docx [SEC=OFFICIAL]

OFFICIAL

Let's discuss if it doesn't work in our letter.

OFFICIAL

From: "MANSON Hilary" <Hilary.Manson@infrastructure.gov.au>
Date: Friday, 13 November 2020 at 2:30:29 pm
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>
Cc: "SPENCE Pip" <Pip.Spence@infrastructure.gov.au>
Subject: PII letter re senate order.docx [SEC=OFFICIAL]

OFFICIAL

A few things need to be filled in but here's the text of a possible letter

OFFICIAL

WALL Ruth

From: s47F
Sent: Friday, 13 November 2020 3:34 PM
To: WALL Ruth; s47F
Subject: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Ruth, s47F – I have updated the Senate motion Minsub and letters with the words provided by Hilary. Please also see my other email on process issues – s47F is lined up to assist next week and I have smoothed the way with the Senate PLO and Tabling Officer, so we should be well placed to proceed once a decision is taken on the Government's response to the request. I've sent the package to you all in PDMS (Ruth you might like to discuss at you meetings this afternoon).

Only other thing that hasn't happened on my end is the receipt of dates from s47F for the outstanding QON. I'm reticent to push too hard on this as I know that Sec Office is aware that we need their input.

See you on Tuesday!

s47F

OFFICIAL

WALL Ruth

Subject: Senate Motion - Leppington [SEC=OFFICIAL]
Location: Ruth and Hilary to ring s47F

Start: Fri 13/11/2020 5:00 PM
End: Fri 13/11/2020 5:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: WALL Ruth

Required Attendees: s47F MANSON Hilary

OFFICIAL

OFFICIAL

WALL Ruth

From: WALL Ruth
Sent: Friday, 13 November 2020 5:48 PM
To: s47F
Subject: Re: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Can we please add to the a detail description of each of the 10 briefs.

OFFICIAL

From: s47F
Date: Friday, 13 November 2020 at 3:33:32 pm
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, s47F
s47F
Subject: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Ruth, s47F – I have updated the Senate motion Minsub and letters with the words provided by Hilary. Please also see my other email on process issues – s47F is lined up to assist next week and I have smoothed the way with the Senate PLO and Tabling Officer, so we should be well placed to proceed once a decision is taken on the Government's response to the request. I've sent the package to you all in PDMS (Ruth you might like to discuss at you meetings this afternoon).

Only other thing that hasn't happened on my end is the receipt of dates from s47F for the outstanding QON. I'm reticent to push too hard on this as I know that Sec Office is aware that we need their input.

See you on Tuesday!

s47F

OFFICIAL

WALL Ruth

From: s47F
Sent: Friday, 13 November 2020 5:48 PM
To: WALL Ruth
Cc: s47F
Subject: RE: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Will do.

OFFICIAL

From: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Sent: Friday, 13 November 2020 5:48 PM
To: s47F
s47F
Subject: Re: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Can we please add to the a detail description of each of the 10 briefs.

OFFICIAL

From: s47F
Date: Friday, 13 November 2020 at 3:33:32 pm
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, s47F
s47F
Subject: Senate motion - and ciao for now! [SEC=OFFICIAL]

OFFICIAL

Ruth, s47F – I have updated the Senate motion Minsub and letters with the words provided by Hilary. Please also see my other email on process issues – s47F is lined up to assist next week and I have smoothed the way with the Senate PLO and Tabling Officer, so we should be well placed to proceed once a decision is taken on the Government's response to the request. I've sent the package to you all in PDMS (Ruth you might like to discuss at you meetings this afternoon).

Only other thing that hasn't happened on my end is the receipt of dates from Ashley and Mon for the outstanding QON. I'm reticent to push too hard on this as I know that Sec Office is aware that we need their input.

See you on Tuesday!

s47F

OFFICIAL

s47F

From: s47F
Sent: Monday, 16 November 2020 9:47 AM
To: WALL Ruth
Cc: s47F
Subject: FOR REVIEW - MS20-001858 - Senate Motion re Leppington
[SEC=OFFICIAL:Sensitive]
Attachments: MS20-001858.docx; Attachment B-Tudge letter.docx; Attachment C - CASH letter -
no template-.docx; Attachment%20D-Hansard%20of%20Senate%20motion[1].pdf
Importance: High

OFFICIAL:Sensitive

Hi Ruth

Please find attached the draft Minute on the Senate Motion. As discussed, I am working on Attachment A (detailed summary) now.

For your consideration please.

Kind regards

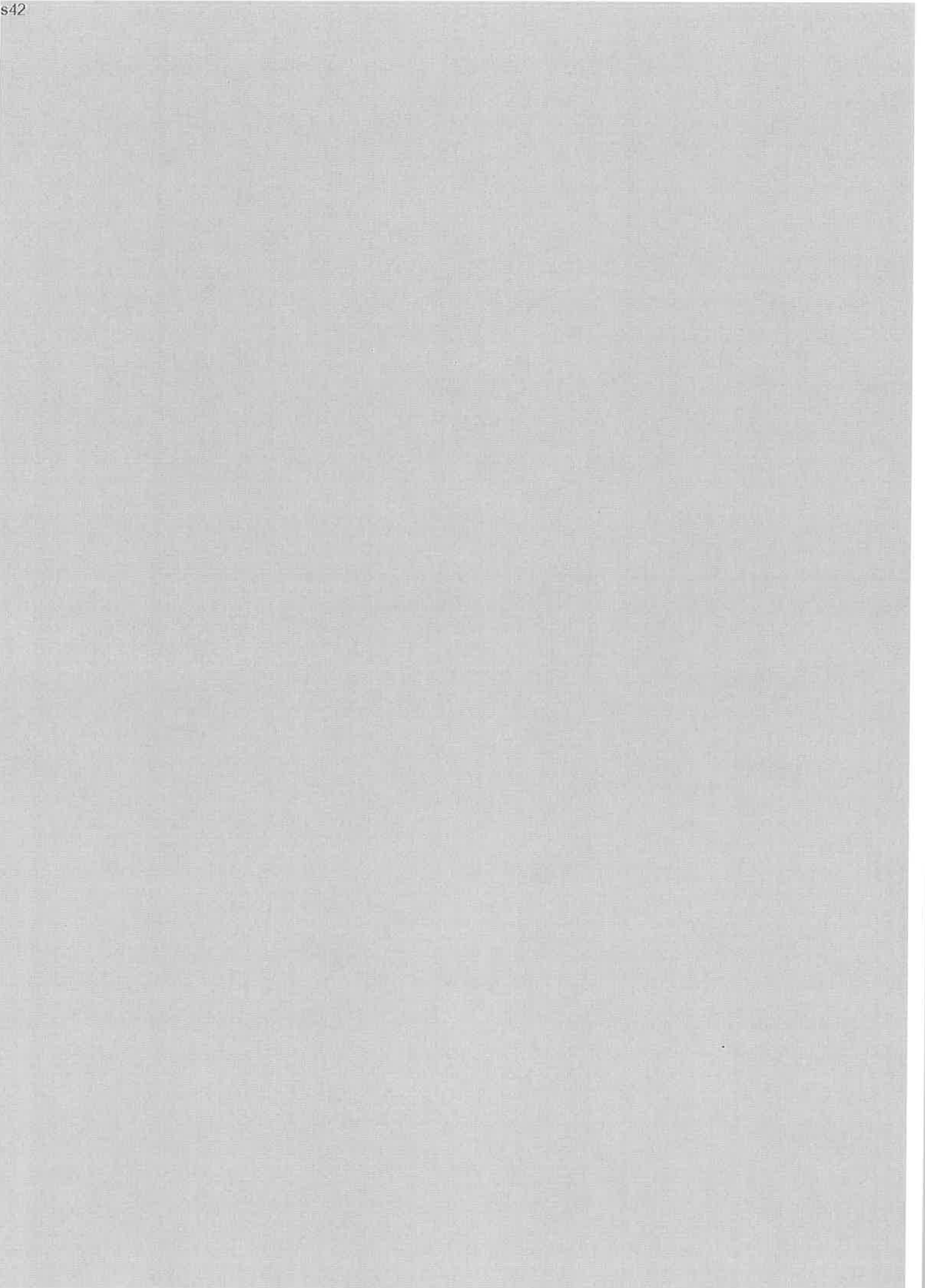
s47F

OFFICIAL:Sensitive

s42



s42



WALL Ruth

From: WALL Ruth
Sent: Monday, 16 November 2020 12:05 PM
To: s47F
Subject: FW: Senate Order for the Production of Documents - Ten written briefs [SEC=OFFICIAL:Sensitive]
Attachments: MS20-001858.docx; Attachment B-Tudge letter.docx; Attachment C - CASH letter - no template-.docx; Attachment D Hansard Senate Proof 12 November 2020.pdf
Importance: High

OFFICIAL:Sensitive

s47F

Can you give me a call (ext 7326) to walk through redactions you have identified.

Thanks
Ruth

OFFICIAL:Sensitive

s42



Ruth Wall FCA
A/g First Assistant Secretary, Assurance
Taskforce

Department of Infrastructure, Transport,
Regional Development and Communications
GPO Box 594, Canberra ACT 2601
02 6274 7326s47F
ruth.wall@infrastructure.gov.au

*The Department proudly acknowledges the
Traditional Owners and Custodians of
Australia, and their continuing connections to
the land, waters and communities. We pay our
respects to them and to their Elders past,
present and emerging.*

OFFICIAL: Sensitive

NOES

Abetz, E
 Askew, W
 Canavan, MJ
 Chandler, C
 Colbeck, R
 Dodson, P
 Fawcett, DJ
 Gallagher, KR
 Henderson, SM
 Hume, J
 McGrath, J
 McLachlan, A
 Molau, AJ
 Paterson, J
 Rennick, G
 Ruston, A
 Scarr, P
 Smith, DA
 Urquhart, AE (teller)
 Walsh, J

Antic, A
 Ayres, T
 Carr, KJ
 Ciccone, R
 Davey, P
 Farrell, D
 Ferravanti-Wells, C
 Hanson, P
 Hughes, H
 McDonald, S
 McKenzie, B
 McMahon, S
 O'Sullivan, MA
 Payne, MA
 Roberts, M
 Ryan, SM
 Seselja, Z
 Stoker, AJ
 Van, D

Question negatived.

DOCUMENTS

Western Sydney Airport

Order for the Production of Documents

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (12:23): At the request of Senators Watt and Sterle, I move:

That there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by no later than 5.30 pm on 18 November 2020, the 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of the Auditor-General's report no.9 of 2020-21, *Purchase of the 'Leppington Triangle' land for the future development of Western Sydney Airport*, as follows, 'The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019'.

Question agreed to.

BILLS

Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment
 Bill 2019

First Reading

Bill received from the House of Representatives.

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (12:24): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

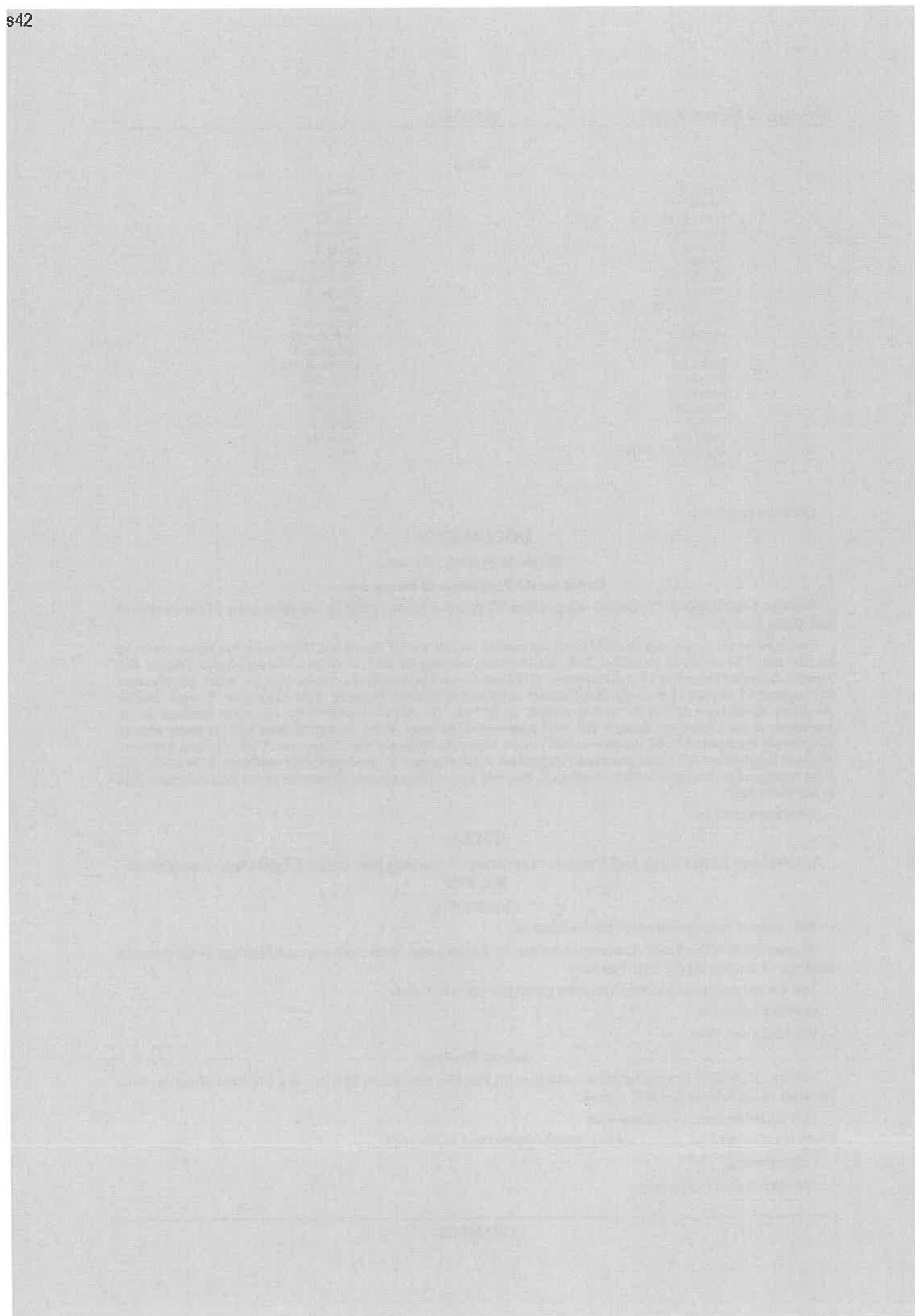
Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (12:24): I move:

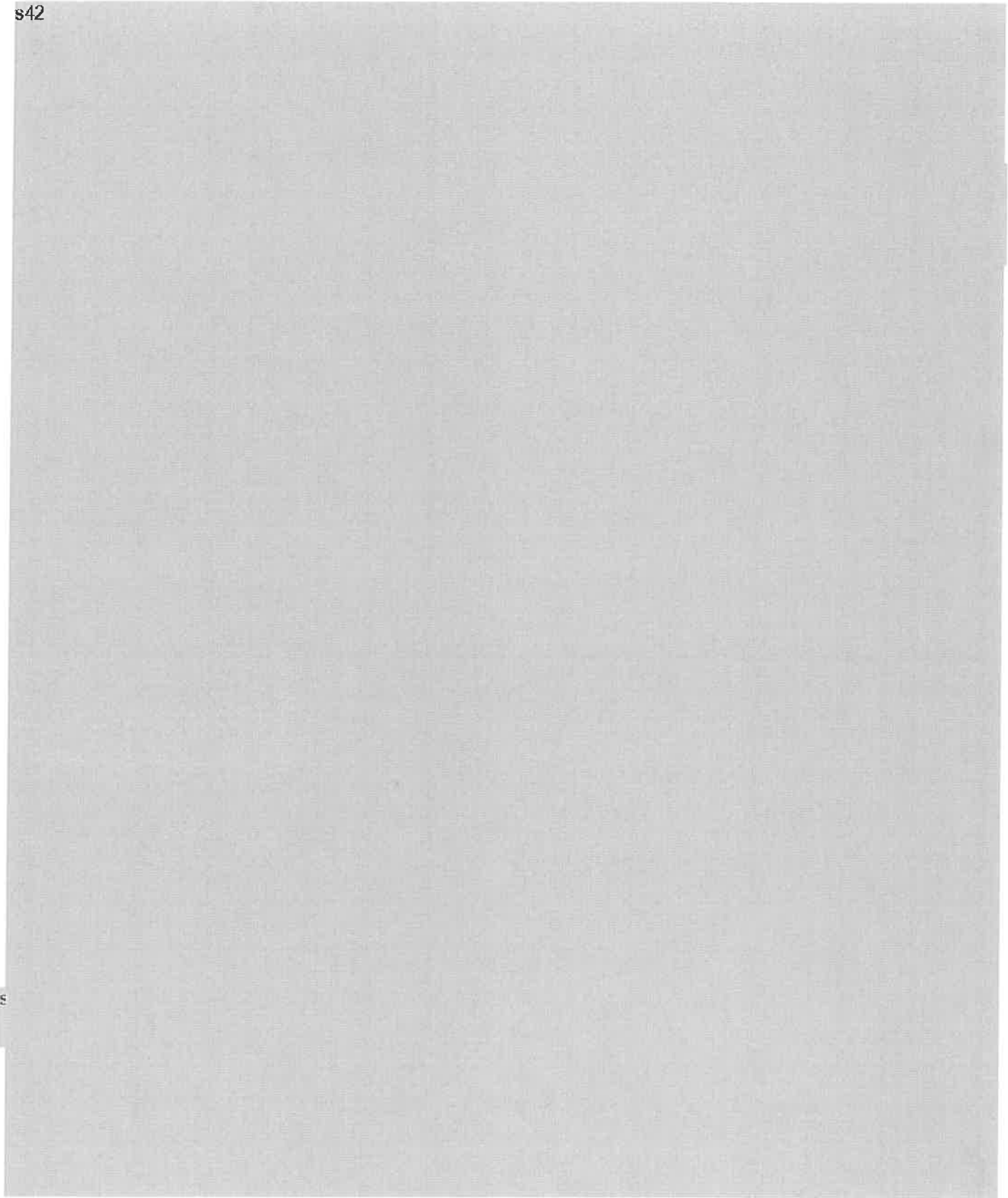
That this bill be now read a second time.

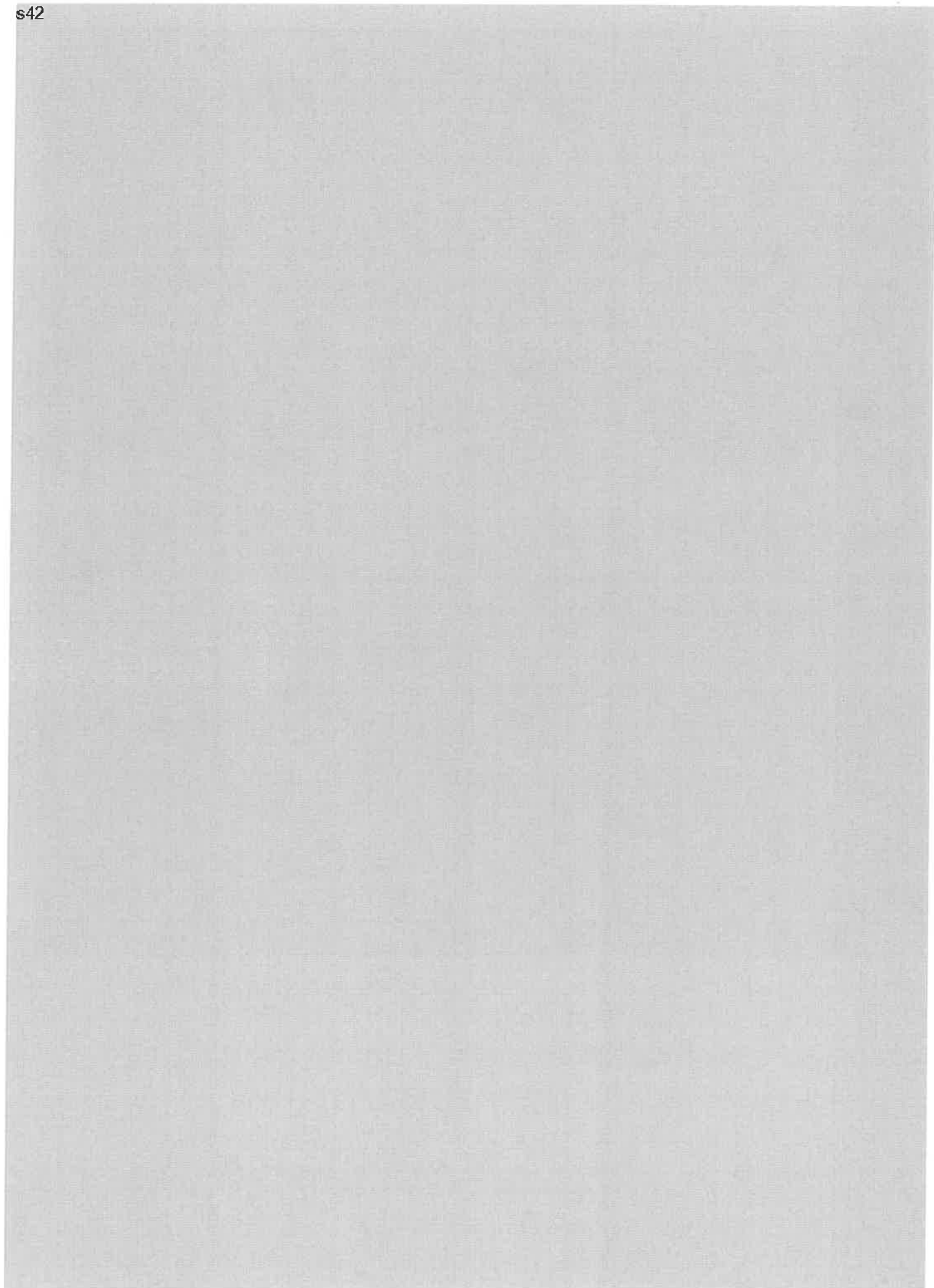
I seek leave to have the second reading speech incorporated in *Hansard*.

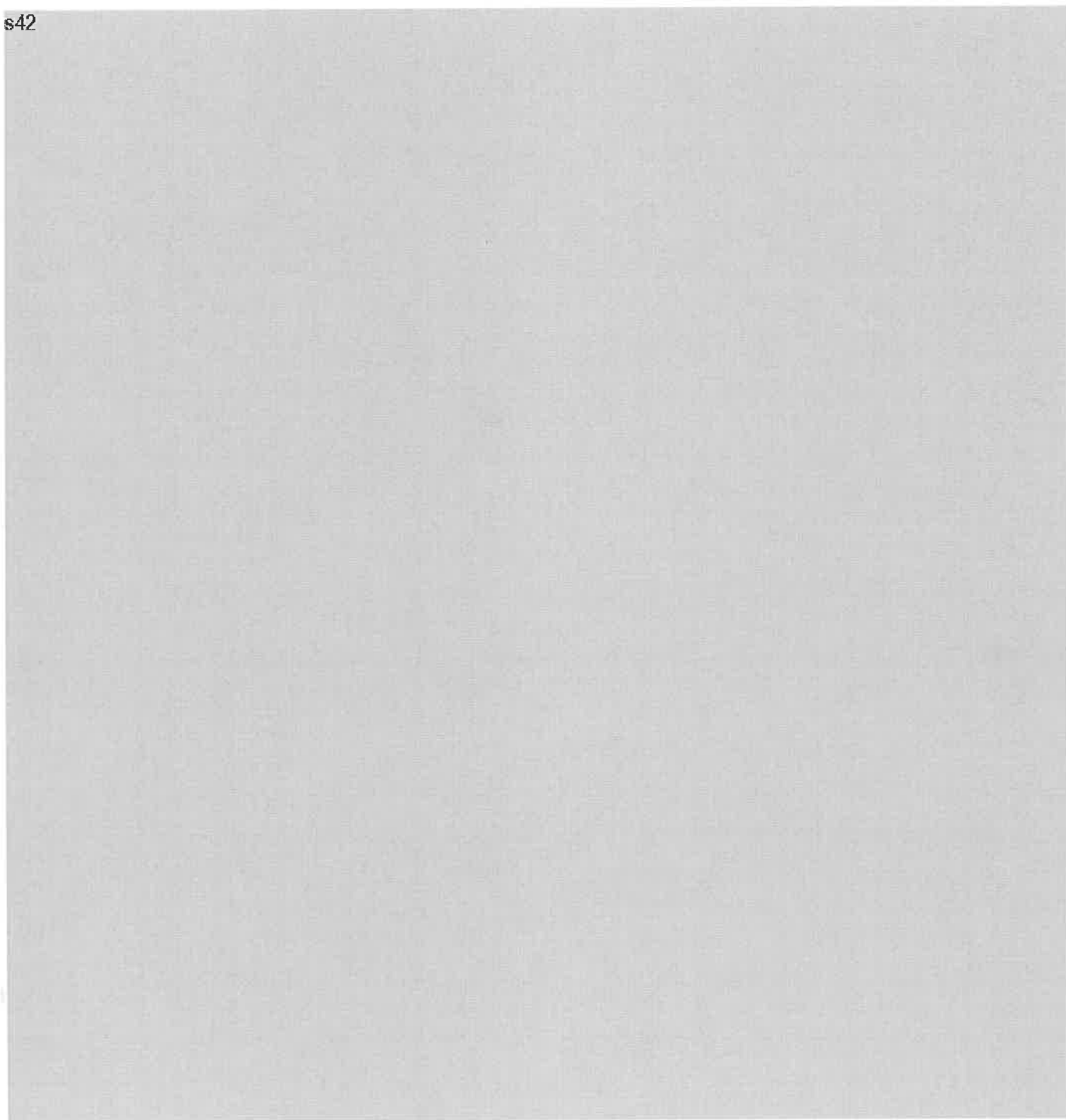
Leave granted.

The speech read as follows—









WALL Ruth

From: WALL Ruth
Sent: Monday, 16 November 2020 12:19 PM
To: MANSON Hilary
Subject: FW: Senate Order for the Production of Documents - Ten written briefs
[SEC=OFFICIAL:Sensitive]
Attachments: MS20-001858.docx; Attachment B-Tudge letter.docx; Attachment C - CASH letter -
no template-.docx; Attachment D Hansard Senate Proof 12 November 2020.pdf
Importance: High

OFFICIAL:Sensitive

Can you please give me a call ex 7326.

Thanks
Ruth

OFFICIAL:Sensitive

s42



NOES

Abetz, E
 Askew, W
 Canavan, MJ
 Chandler, C
 Colbeck, R
 Dodson, P
 Fawcett, DJ
 Gallagher, KR
 Henderson, SM
 Hume, J
 McGrath, J
 McLachlan, A
 Molan, AJ
 Paterson, J
 Rennie, G
 Ruston, A
 Scarr, P
 Smith, DA
 Urquhart, AE (teller)
 Walsh, J

Antic, A
 Ayres, T
 Carr, KJ
 Ciccone, R
 Davey, P
 Farrell, D
 Fierravanti-Wells, C
 Hanson, P
 Hughes, H
 McDonald, S
 McKenzie, B
 McMahon, S
 O'Sullivan, MA
 Payne, MA
 Roberts, M
 Ryan, SM
 Seselja, Z
 Stoker, AJ
 Van, D

Question negatived.

DOCUMENTS

Western Sydney Airport

Order for the Production of Documents

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (12:23): At the request of Senators Watt and Sterle, I move:

That there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by no later than 5.30 pm on 18 November 2020, the 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of the Auditor-General's report no.9 of 2020-21, *Purchase of the 'Leppington Triangle' land for the future development of Western Sydney Airport*, as follows, 'The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019'.

Question agreed to.

BILLS

Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment
 Bill 2019

First Reading

Bill received from the House of Representatives.

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That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

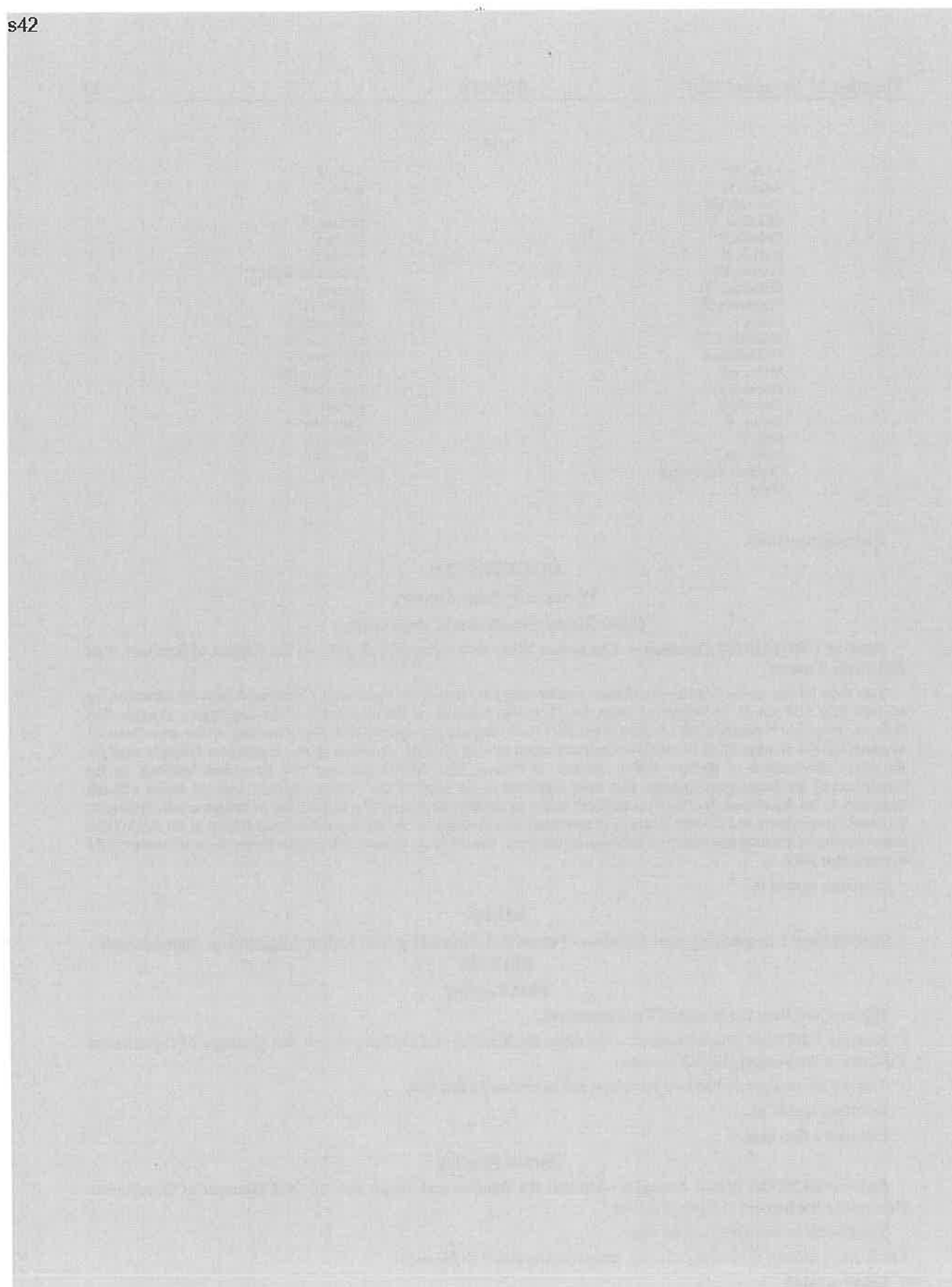
Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (12:24): I move:

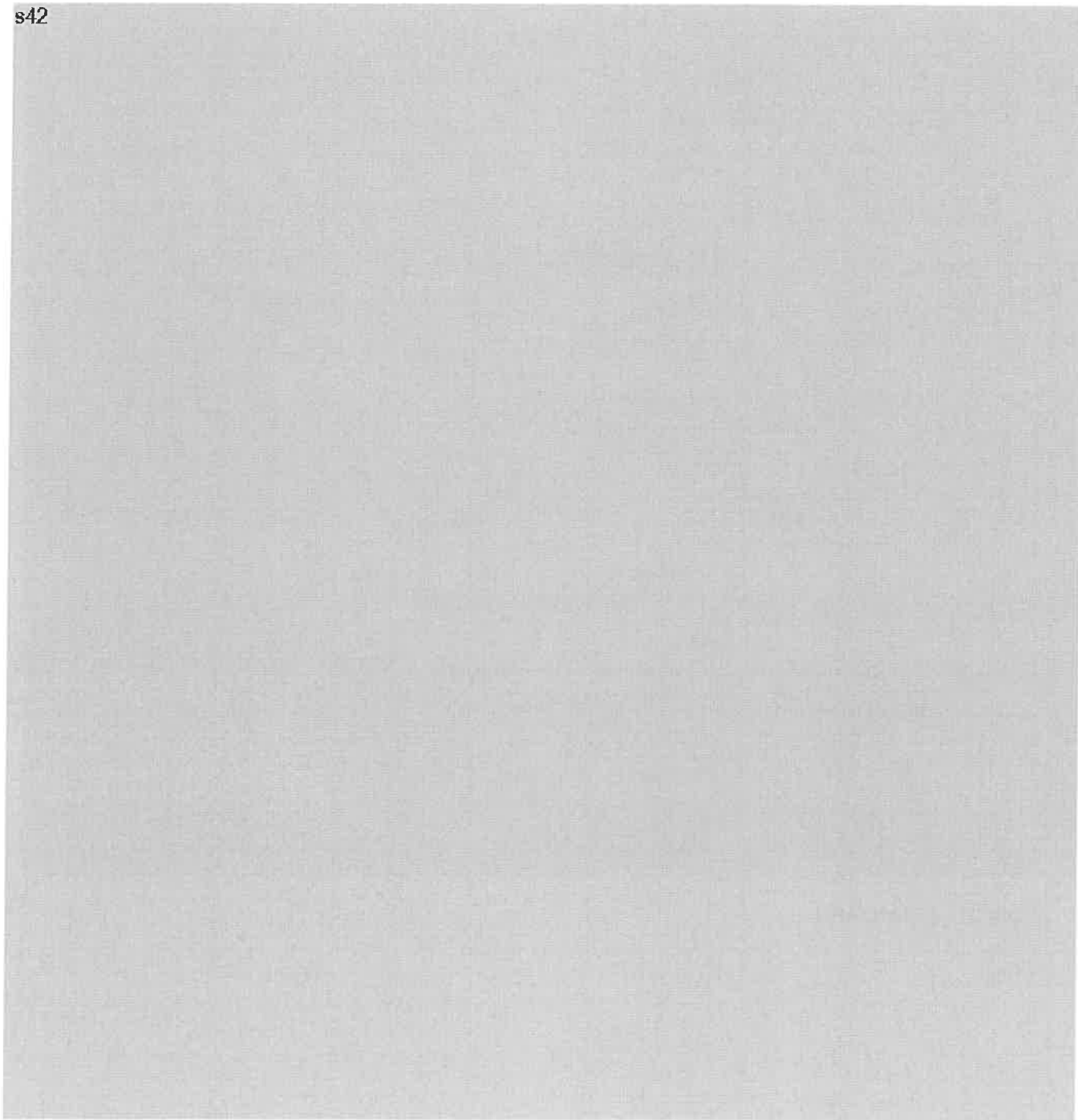
That this bill be now read a second time.

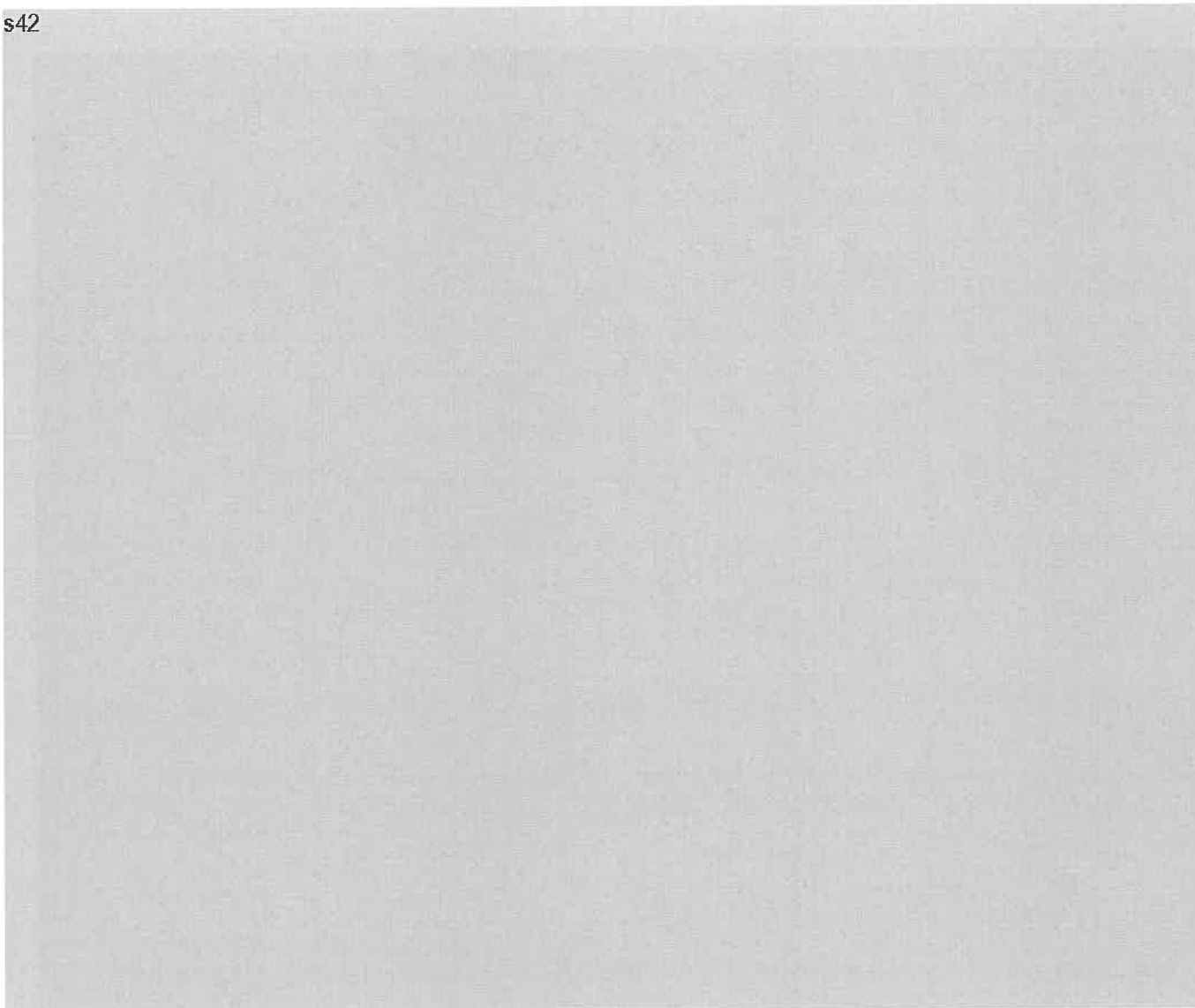
I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

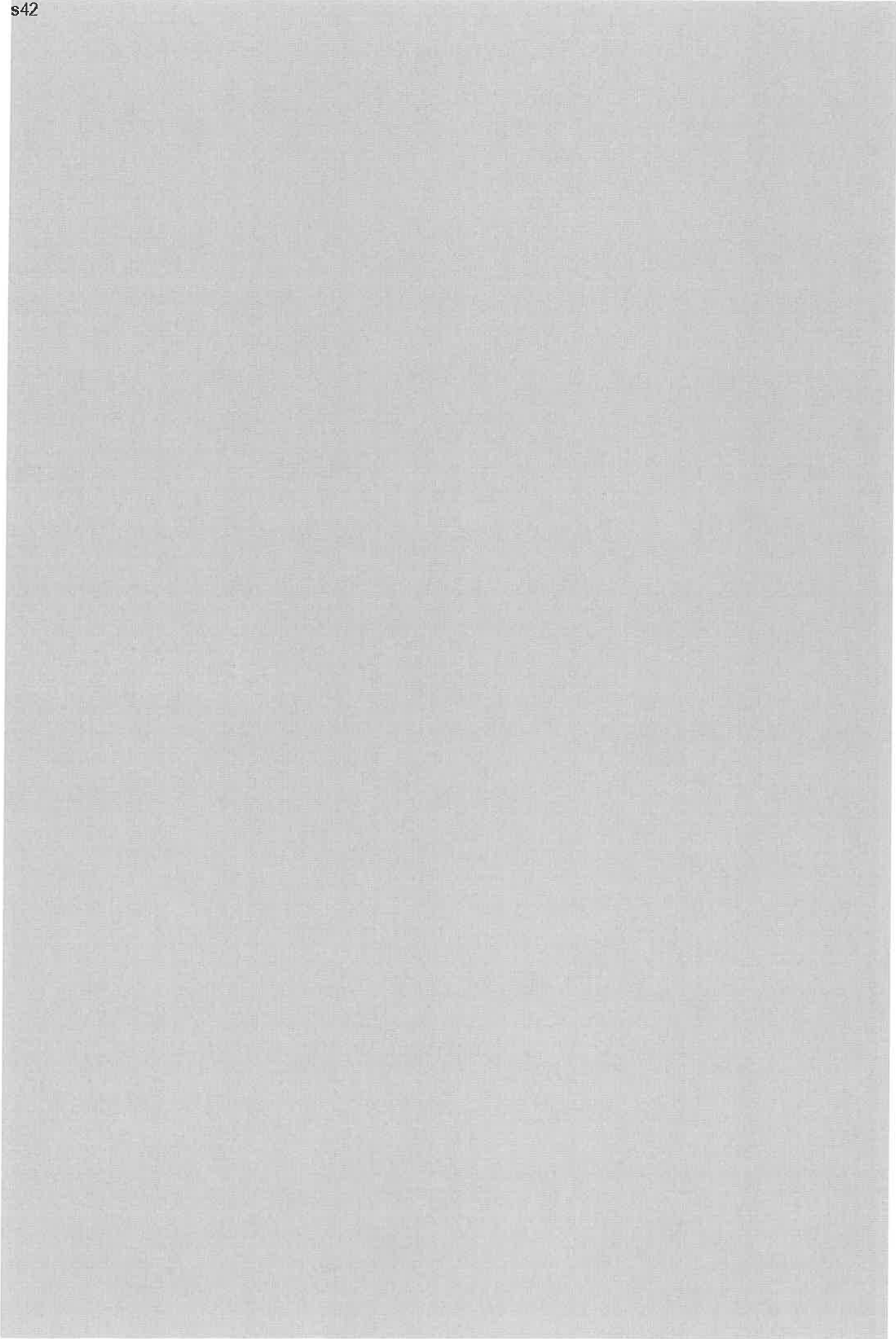






MICHAELIA CASH

Enc.



s47F

From: s47F
Sent: Monday, 16 November 2020 1:09 PM
To: s47F
Subject: RE: Attachment - Summary of briefs [SEC=OFFICIAL:Sensitive]
Attachments: Attachment - Summary of documents - summary of brief No.9.docx

OFFICIAL:Sensitive

OFFICIAL:Sensitive

From: s47F
Sent: Monday, 16 November 2020 12:23 PM
To: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Cc: s47F
Subject: Attachment - Summary of briefs [SEC=OFFICIAL:Sensitive]
Importance: High

OFFICIAL:Sensitive

Hi Ruth

The first four briefs summarised for your feedback please.

Thanks

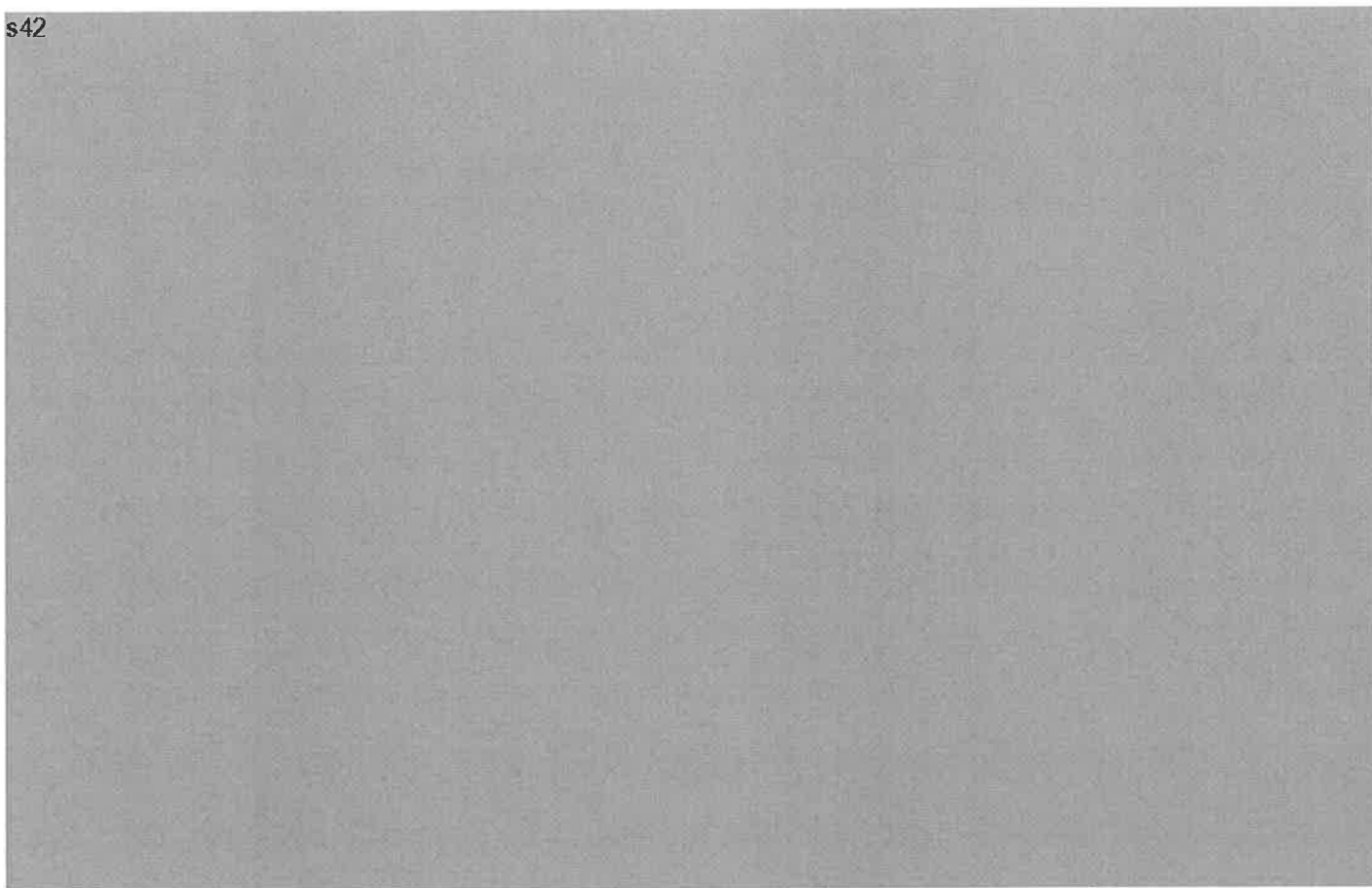
s47F

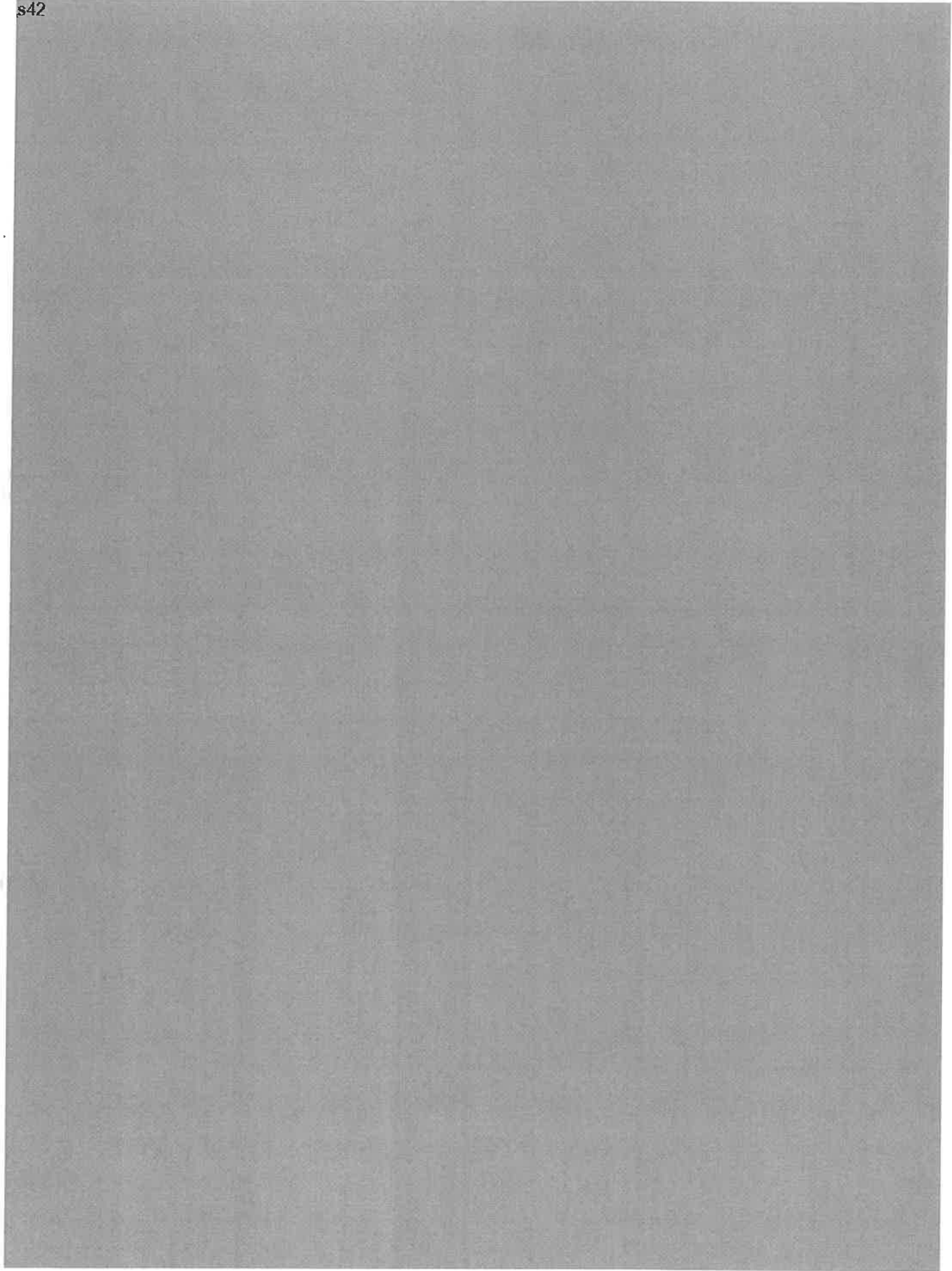
OFFICIAL:Sensitive

s42



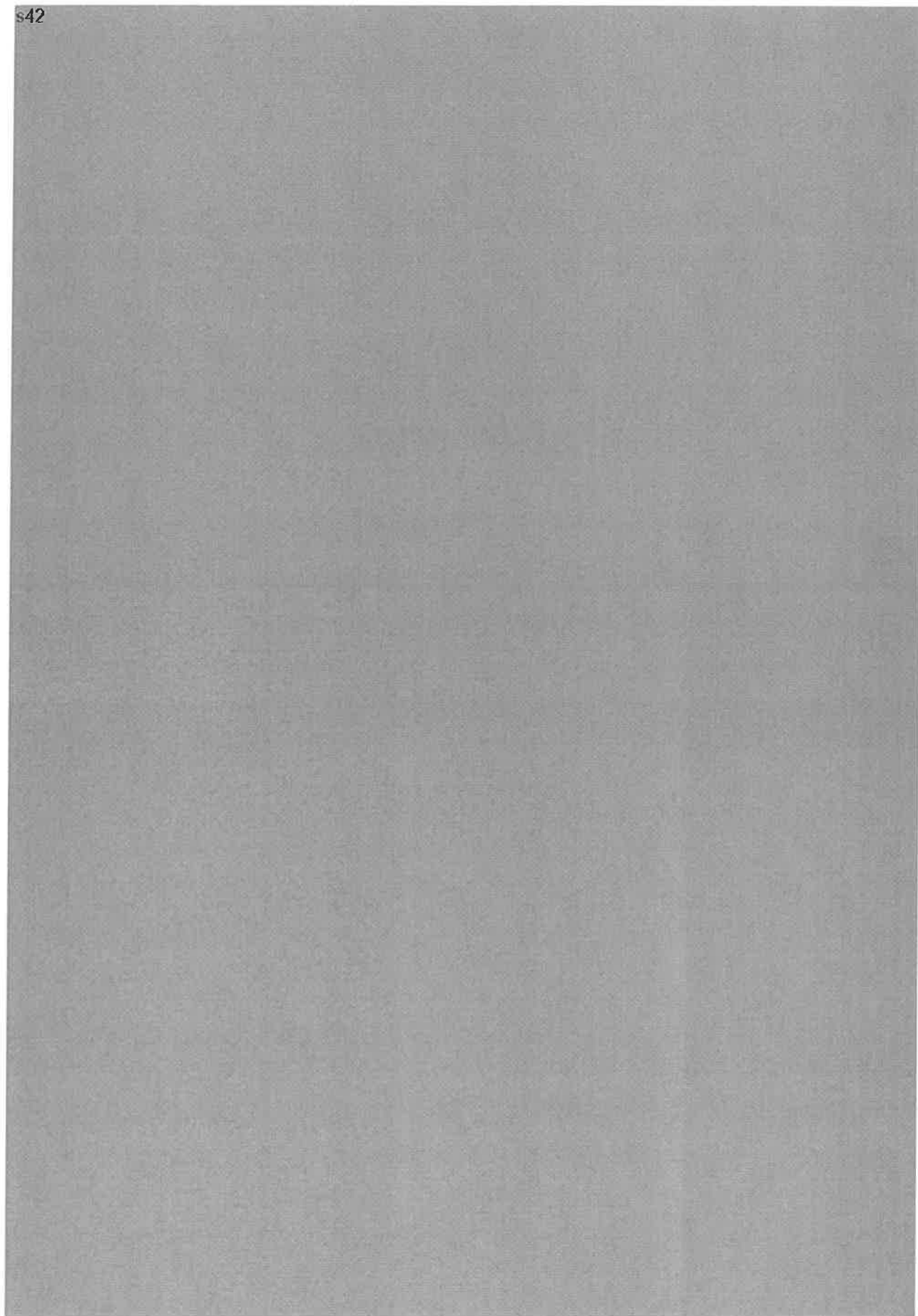
s42

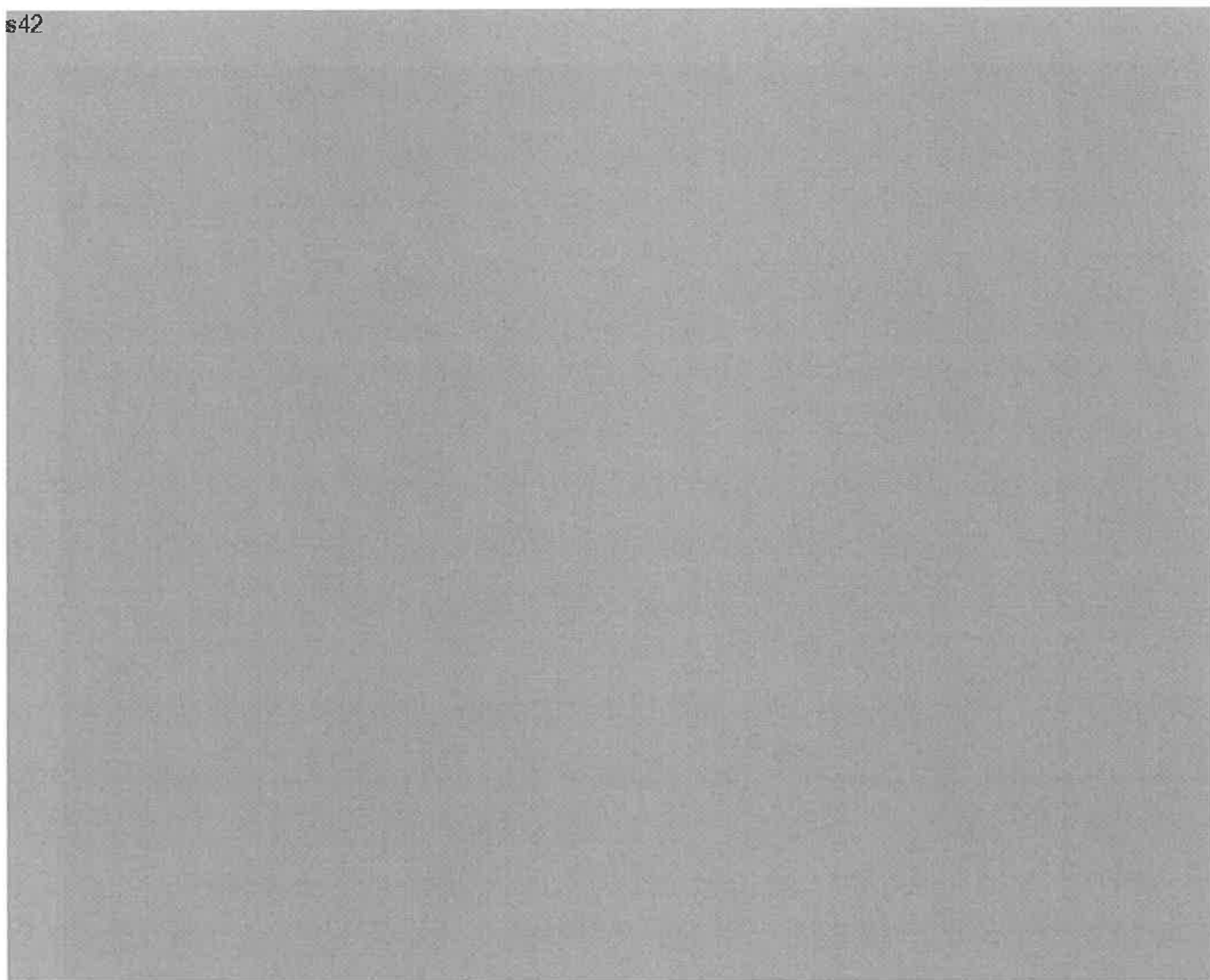




s42

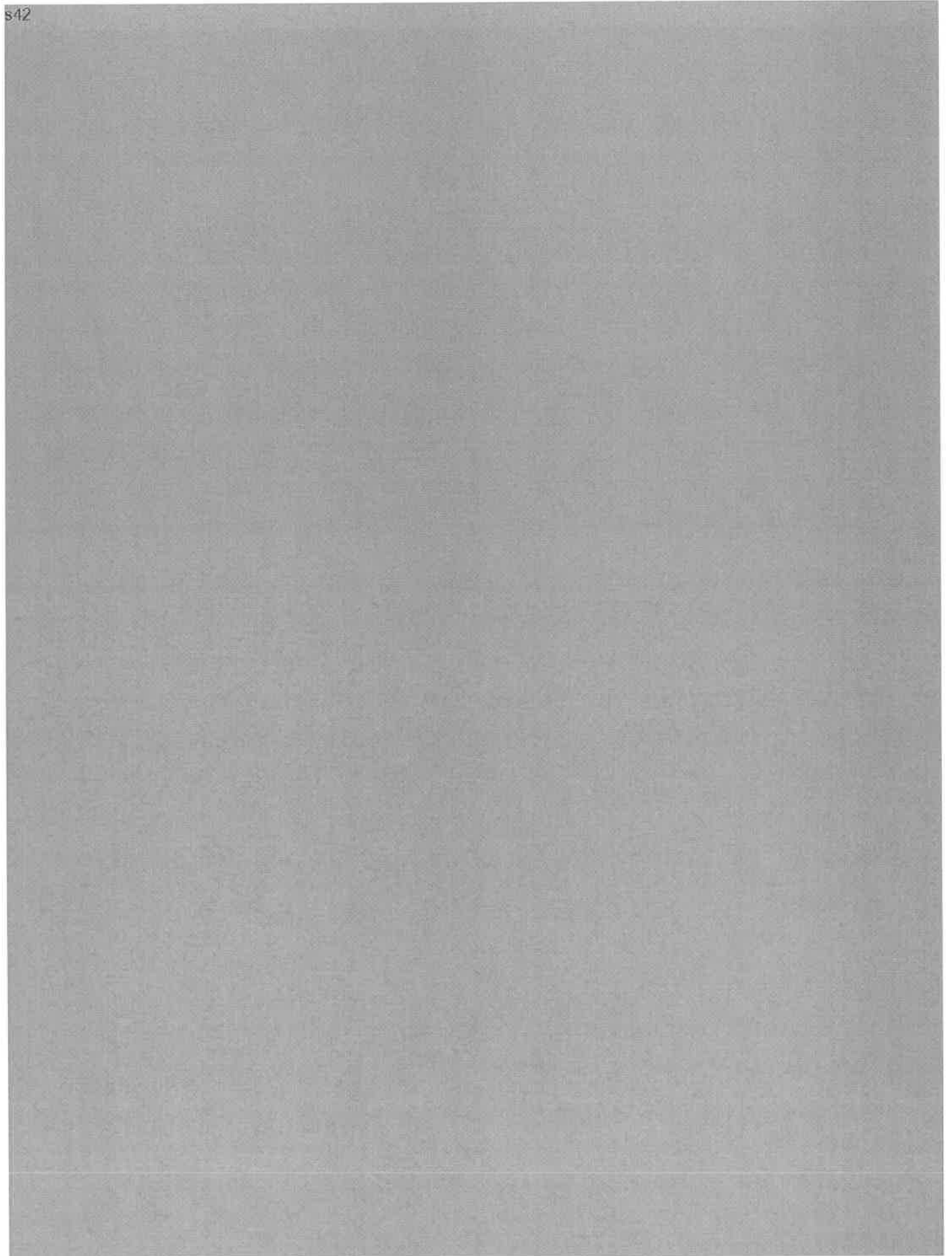






s42





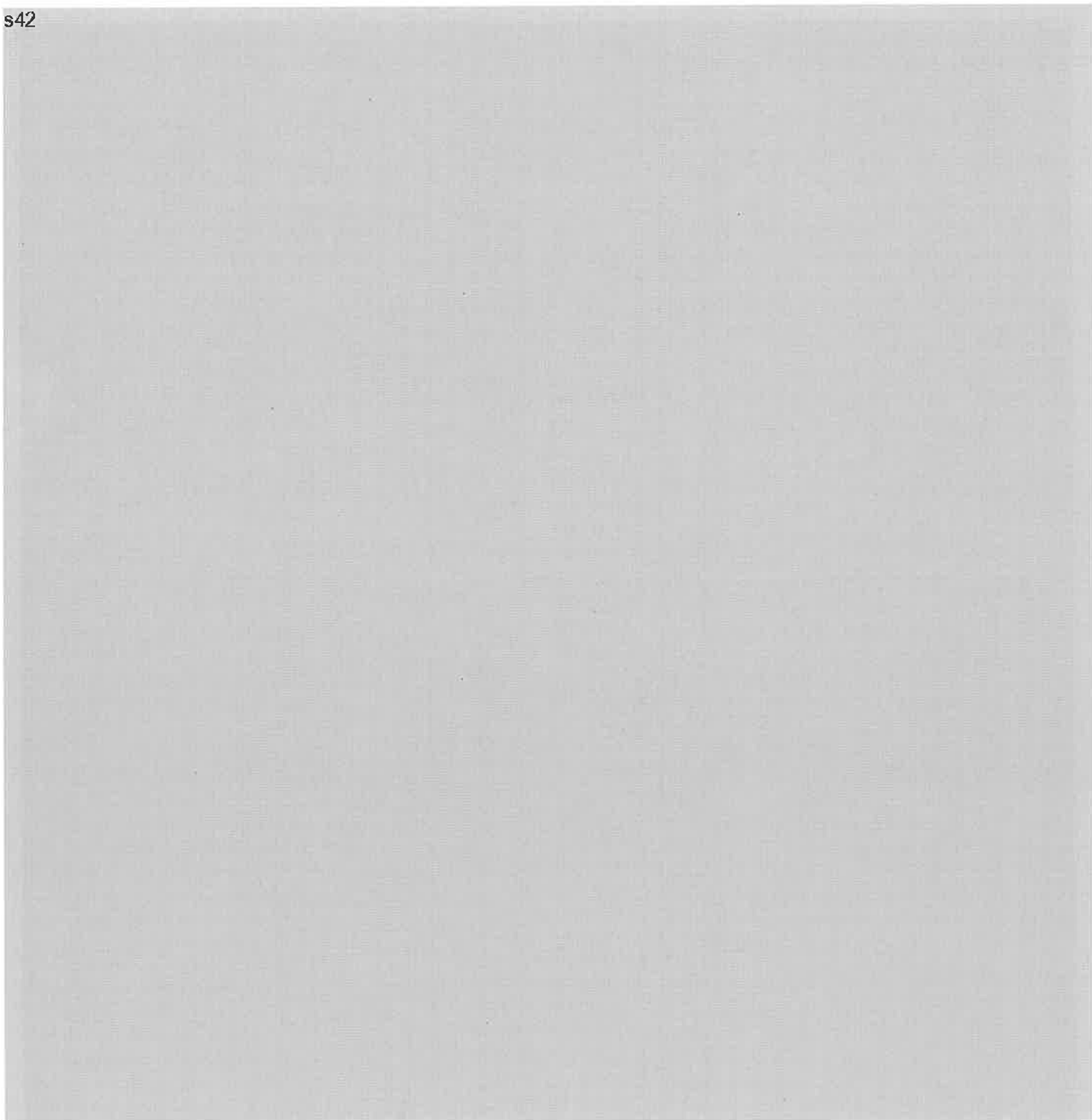
s42



s42



s42



WALL Ruth

From: WALL Ruth
Sent: Monday, 16 November 2020 2:47 PM
To: s47F
Subject: Attachment B-Tudge letter (003).docx [SEC=OFFICIAL]
Attachments: Attachment B-Tudge letter (003).docx

OFFICIAL

Please up load this version in PDMS

OFFICIAL



The Hon Alan Tudge MP

Minister for Population, Cities and Urban Infrastructure

Ref: MC20-001858

Senator the Hon Scott Ryan
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

I refer to the Senate Order for the Production of Documents agreed by the Senate on Thursday 12 November 2020 (the Order), requiring the tabling of the ten written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of Auditor-General Report No 9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport* (the Report).

The documents specified in the Order will not be produced as I am advised that it would not be in the public interest to comply with the Order for the reasons set out below.

The Senate has recognised that where the provision of information would have the tendency to prejudice law enforcement investigations, public interest immunity (PII) may be invoked. This is reflected in Odgers' Australian Senate Practice, 14th edition, which states in chapter 19 that this ground may be invoked if it is 'established that there are investigations in progress by a law enforcement agency, such as the police, and the provision of the information sought could interfere with those investigations.' This is also reflected in paragraph 4.6.1 of the *Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters*, which notes that a PII claim may be made in relation to information which would, or might reasonably be expected to 'prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance'.

The Australian Federal Police (AFP) advised the Senate Legal and Constitutional Affairs Committee on 20 October 2020 that the matters which were the subject of the Report are under active investigation by the AFP. The investigation is in its early stages. Information provided to the Senate in response to an Order under Senate Standing Order 164 is tabled and published. The public disclosure of information concerning the matters under investigation by the AFP, including to the Senate, would have the potential to prejudice that investigation.

Public disclosure of such information could influence or inhibit the evidence of potential witnesses in the AFP investigation and disclose possible avenues of enquiry. Further, the disclosure of information concerning the matters under active investigation in the course of the proceedings of Parliament (which includes proceedings before the Committee) may create obstacles to the use of that information in any court or tribunal proceedings which might follow the investigation.

In this regard, the courts have recognised that public disclosure of matters which are the subject of an active investigation 'might inhibit the willingness of persons to volunteer information relevant to the investigation' and that the ability of investigating authorities to obtain 'the fullest possible information, without the persons volunteering such information being inhibited by any possible repercussions which might flow from the disclosure of the information' is to be protected¹.

I am also advised that it would also not be in the public interest to provide the documents specified in the Order because the documents are integral to an ongoing disciplinary investigation under the *Public Service Act 1999*. Disclosure of the documents may enable the identity of those subject to this investigation to be identified.

I trust this information is of assistance.

Yours sincerely

Alan Tudge

/ / 2020

¹ See *Dupont v Chief Commissioner of Police* [2015] FamCAFC 64; *Maloney v New South Wales Coursing Association Ltd* (1978) 3 ACLR 385; *Ryan v Victoria* [2015] VSCA 353.

WALL Ruth

From: WALL Ruth
Sent: Monday, 16 November 2020 3:23 PM
To: SPENCE Pip
Cc: s47F [REDACTED] MANSON Hilary
Subject: Additional wording in the Senator Order [SEC=OFFICIAL]
Attachments: MS20-001858.docx

Importance: High

OFFICIAL

OFFICIAL

ip .

I have made one amendment to the brief to advise the Minister that we can make the briefs available to him. Please see changes marked up in yellow. This is as per my discussion with the Secretary.

Are you comfortable with this change?

Ruth

OFFICIAL

OFFICIAL


Australian Government
**Department of Infrastructure, Transport,
Regional Development and Communications**
To: The Hon Alan Tudge MP (for decision)
cc: The Hon Michael McCormack MP
cc: The Hon Paul Fletcher MP
cc: Mr Simon Atkinson, Secretary
cc: Mr David Hallinan, Deputy Secretary Infrastructure and Surface Transport
cc: Ms Pip Spence PSM, Deputy Secretary Arts and Chief Operating Officer
Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase
Action required by: Tuesday 17 November 2020
Reason: Documents are required to be tabled, in full or in part, in the Senate by 5:30pm on Wednesday 18 November 2020.

Recommendation/s:	
1. That you agree to not comply with a Senate Order seeking the release of the ten written briefs referenced in the ANAO report on the Leppington Triangle purchase on public interest immunity grounds;	Agreed / Not Agreed
2. That you sign the letter at Attachment A to Senator the Hon Scott Ryan, President of the Senate, setting out the Government's response to the Senate Order; and	Signed / Not Signed
3. That you agree to provide Senator the Hon Michaelia Cash your signed letter and the letter at Attachment B for her signature, as the Minister representing you in the Senate, for tabling no later than 5:30pm on 18 November 2020.	Agreed / Not Agreed
<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div> The Hon Alan Tudge MP Comments: </div> <div> Date: </div> </div>	

Key Points:

- On 12 November 2020, the Senate carried a motion put forward by Senator Murray Watts and Senator Glenn Sterle to order the tabling of the ten written briefings on the acquisition of the Leppington Triangle land between November 2015 and November 2019 which are referenced

in paragraph 4.1 on page 57 of the ANAO report No. 9 2020-21 on the *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport* (the Report), including the annotations of decision makers, by 5:30pm on 18 November 2020. The Hansard record of the motion is at **Attachment C**.

2. The Department has considered the documents associated with the Senate Order and found that reasonable justification can be made for not providing the documents requested on public interest immunity grounds. At your request, the Department can make the ten written briefs available to you.
3. The Senate has recognised that where the provision of information would, or might reasonably be expected to, prejudice law enforcement investigations, public interest immunity may be invoked (Odgers' Australian Senate Practice (14th edition), Chapter 19).
4. The Australian Federal Police (AFP) advised the Senate Legal and Constitutional Affairs Committee on 20 October 2020 that matters which were the subject of the Report are under active investigation. The Department considers that the public disclosure of matters under investigation by the AFP, including to the Senate, would have the potential to prejudice this investigation.
5. Further, it would also not be in the public interest to provide the documents specified in the Senate Order because the documents are integral to an ongoing disciplinary investigation under the *Public Service Act 1999*. Disclosure of the documents may enable the identity of those subject to this investigation to be identified.
6. The proposed Government response to the Senate Order at **Attachment A**, refusing the release of the requested documents, outlines the above reasons in greater detail.

Consultation:

7. This response has been developed in consultation with the Department's General Counsel.

Name: Ruth Wall
Position: A/g First Assistant Secretary
Division: Assurance Taskforce
Ph: 6274 7326
Mobs47F
Date: 16 November 2020

Contact Officer: s47F
Section: Assurance Taskforce
s47F

Attachments:

- A: Draft letter from Minister Tudge to the President of the Senate
- B: Draft letter from Minister Cash to the President of the Senate
- C: Hansard of Senate 12 November 2020

WALL Ruth

From: SPENCE Pip
Sent: Monday, 16 November 2020 3:40 PM
To: WALL Ruth
Cc: s47F [REDACTED] MANSON Hilary
Subject: RE: Additional wording in the Senator Order [SEC=OFFICIAL]

OFFICIAL

Hi Ruth

Ok with me, thanks
Pip

OFFICIAL

From: WALL Ruth <Ruth.Wall@infrastructure.gov.au>
Sent: Monday, 16 November 2020 3:23 PM
To: SPENCE Pip <Pip.Spence@infrastructure.gov.au>
s47F [REDACTED] @infrastructure.gov.au; MANSON Hilary
<Hilary.Manson@infrastructure.gov.au>
Subject: Additional wording in the Senator Order [SEC=OFFICIAL]
Importance: High

OFFICIAL

OFFICIAL

p

I have made one amendment to the brief to advise the Minister that we can make the briefs available to him. Please see changes marked up in yellow. This is as per my discussion with the Secretary.

Are you comfortable with this change?

Ruth

OFFICIAL

OFFICIAL

WALL Ruth

From: s47F
Sent: Monday, 16 November 2020 4:08 PM
To: DLO Tudge
Cc: WALL Ruth; HALLINAN David; SPENCE Pip; VINE-CAMP Kerryn; MANSON Hilary; s47F s47F s47F
Subject: MS20-001858 – Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase [SEC=OFFICIAL:Sensitive]
Attachments: MS20-001858.docx; Attachment A -Tudge letter -003-.docx; Attachment B - CASH letter -no template-.docx; Attachment C - Hansard Senate.pdf

OFFICIAL:Sensitive

s47F

Please see the attached copy of *MS20-001858 – Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase*.

This has also been sent through the PDMS system.

Kind regards

s47F

Assistant Director
 Assurance Taskforce
 Department of Infrastructure,
 Transport, Regional Development and
 Communications

s47F

GPO Box 594, Canberra ACT 2601



Australian Government

**Department of Infrastructure, Transport,
 Regional Development and Communications**

The department proudly acknowledges the Traditional Owners and Custodians of Australia, and their continuing connections to the land, waters and communities. We pay our respects to them and to their Elders past, present and emerging.

OFFICIAL:Sensitive

OFFICIAL:Sensitive


Australian Government
**Department of Infrastructure, Transport,
Regional Development and Communications**
To: The Hon Alan Tudge MP (for decision)
cc: The Hon Michael McCormack MP
cc: The Hon Paul Fletcher MP
cc: Mr Simon Atkinson, Secretary
cc: Mr David Hallinan, Deputy Secretary Infrastructure and Surface Transport
cc: Ms Pip Spence PSM, Deputy Secretary Arts and Chief Operating Officer
Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase
Action required by: Tuesday 17 November 2020
Reason: Documents are required to be tabled, in full or in part, in the Senate by 5:30pm on Wednesday 18 November 2020.

Recommendation/s:	
1. That you agree to not comply with a Senate Order seeking the release of the ten written briefs referenced in the ANAO report on the Leppington Triangle purchase on public interest immunity grounds;	Agreed / Not Agreed
2. That you sign the letter at <u>Attachment A</u> to Senator the Hon Scott Ryan, President of the Senate, setting out the Government's response to the Senate Order; and	Signed / Not Signed
3. That you agree to provide Senator the Hon Michaelia Cash your signed letter and the letter at <u>Attachment B</u> for her signature, as the Minister representing you in the Senate, for tabling no later than 5:30pm on 18 November 2020.	Agreed / Not Agreed
<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div> The Hon Alan Tudge MP Comments: </div> <div> Date: </div> </div>	

Key Points:

- On 12 November 2020, the Senate carried a motion put forward by Senator Murray Watt and Senator Glenn Sterle to order the tabling of the ten written briefings on the acquisition of the Leppington Triangle land between November 2015 and November 2019 which are referenced

in paragraph 4.1 on page 57 of the ANAO report No. 9 2020-21 on the *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport* (the Report), including the annotations of decision makers, by 5:30pm on 18 November 2020. The Hansard record of the motion is at Attachment C.

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3. The Senate has recognised that where the provision of information would, or might reasonably be expected to, prejudice law enforcement investigations, public interest immunity may be invoked (Odgers' Australian Senate Practice (14th edition), Chapter 19).
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5. Further, it would also not be in the public interest to provide the documents specified in the Senate Order because the documents are integral to an ongoing disciplinary investigation under the *Public Service Act 1999*. Disclosure of the documents may enable the identity of those subject to this investigation to be identified.
6. The proposed Government response to the Senate Order at Attachment A, refusing the release of the requested documents, outlines the above reasons in greater detail.

Consultation:

7. This response has been developed in consultation with the Department's General Counsel.

Name: Ruth Wall
Position: A/g First Assistant Secretary
Division: Assurance Taskforce
Ph: 6274 7326
Mob: s47F
Date: 16 November 2020

Contact Officer: s47F
Section: Assurance Taskforce
s47F

Attachments:

- A: Draft letter from Minister Tudge to the President of the Senate
- B: Draft letter from Minister Cash to the President of the Senate
- C: Hansard of Senate 12 November 2020



The Hon Alan Tudge MP

Minister for Population, Cities and Urban Infrastructure

Ref: MC20-001858

Senator the Hon Scott Ryan
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

I refer to the Senate Order for the Production of Documents agreed by the Senate on Thursday 12 November 2020 (the Order), requiring the tabling of the ten written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of Auditor-General Report No 9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport* (the Report).

The documents specified in the Order will not be produced as I am advised that it would not be in the public interest to comply with the Order for the reasons set out below.

The Senate has recognised that where the provision of information would have the tendency to prejudice law enforcement investigations, public interest immunity (PII) may be invoked. This is reflected in Odgers' Australian Senate Practice, 14th edition, which states in chapter 19 that this ground may be invoked if it is 'established that there are investigations in progress by a law enforcement agency, such as the police, and the provision of the information sought could interfere with those investigations.' This is also reflected in paragraph 4.6.1 of the *Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters*, which notes that a PII claim may be made in relation to information which would, or might reasonably be expected to 'prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance'.

The Australian Federal Police (AFP) advised the Senate Legal and Constitutional Affairs Committee on 20 October 2020 that the matters which were the subject of the Report are under active investigation by the AFP. The investigation is in its early stages. Information provided to the Senate in response to an Order under Senate Standing Order 164 is tabled and published. The public disclosure of information concerning the matters under investigation by the AFP, including to the Senate, would have the potential to prejudice that investigation.

Public disclosure of such information could influence or inhibit the evidence of potential witnesses in the AFP investigation and disclose possible avenues of enquiry. Further, the disclosure of information concerning the matters under active investigation in the course of the proceedings of Parliament (which includes proceedings before the Committee) may create obstacles to the use of that information in any court or tribunal proceedings which might follow the investigation.

In this regard, the courts have recognised that public disclosure of matters which are the subject of an active investigation 'might inhibit the willingness of persons to volunteer information relevant to the investigation' and that the ability of investigating authorities to obtain 'the fullest possible information, without the persons volunteering such information being inhibited by any possible repercussions which might flow from the disclosure of the information' is to be protected¹.

I am also advised that it would also not be in the public interest to provide the documents specified in the Order because the documents are integral to an ongoing disciplinary investigation under the *Public Service Act 1999*. Disclosure of the documents may enable the identity of those subject to this investigation to be identified.

I trust this information is of assistance.

Yours sincerely

Alan Tudge

/ / 2020

¹ See *Dupont v Chief Commissioner of Police* [2015] FamCAFC 64; *Maloney v New South Wales Coursing Association Ltd* (1978) 3 ACLR 385; *Ryan v Victoria* [2015] VSCA 353.

[TEXT FOR MINISTER CASH]

Senator the Hon Scott Ryan
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

I write in response to an Order for the Production of Documents, agreed by the Senate on Thursday 12 November 2020, relating to the ANAO's report no.9 of 2020-21 on the *Purchase of the 'Leppington Triangle' land for the future development of Western Sydney Airport* (the Report).

The Order requires me to table the ten written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations by decision makers), which are referenced in paragraph 4.1 on page 57 of the Report, in my capacity representing the Minister for Population, Cities and Urban Infrastructure, the Hon Alan Tudge MP in the Senate.

I enclose to this letter the Government's response to the Order.

Yours sincerely

MICHAELIA CASH

Enc.

NOES

Abetz, E
 Askew, W
 Canavan, MJ
 Chandler, C
 Colbeck, R
 Dodson, P
 Fawcett, DJ
 Gallagher, KR
 Henderson, SM
 Hume, J
 McGrath, J
 McLachlan, A
 Molan, AJ
 Paterson, J
 Rennick, G
 Ruston, A
 Scarr, P
 Smith, DA
 Urquhart, AB (teller)
 Walsh, J

Antic, A
 Ayres, T
 Carr, KJ
 Ciccone, R
 Davey, P
 Farrell, D
 Ferravanti-Wells, C
 Hanson, P
 Hughes, H
 McDonald, S
 McKenzic, B
 McMahon, S
 O'Sullivan, MA
 Payne, MA
 Roberts, M
 Ryan, SM
 Scollja, Z
 Stoker, AJ
 Van, D

Question negatived.

DOCUMENTS

Western Sydney Airport

Order for the Production of Documents

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (12:23): At the request of Senators Watt and Sterle, I move:

That there be laid on the table by the Minister representing the Minister for Population, Cities and Urban Infrastructure, by no later than 5.30 pm on 18 November 2020, the 10 written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of the Auditor-General's report no.9 of 2020-21, *Purchase of the 'Leppington Triangle' land for the future development of Western Sydney Airport*, as follows, 'The ANAO examined the 10 written briefings on the acquisition of the Leppington Triangle that were submitted to the head of the Western Sydney Unit, to senior officials elsewhere in the department (the 'decision-makers') and/or to portfolio Ministers. The Department of Infrastructure, Transport, Regional Development and Communications ('Department of Infrastructure' or 'the department') confirmed to the ANAO that these constituted the total population of briefings on the topic. The briefings spanned a four-year period from November 2015 to November 2019'.

Question agreed to.

BILLS

Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Bill 2019

First Reading

Bill received from the House of Representatives.

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (12:24): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator RUSTON (South Australia—Minister for Families and Social Services and Manager of Government Business in the Senate) (12:24): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

s47F

From: DLO Tudge
Sent: Wednesday, 18 November 2020 12:02 PM
To: DLO Tudge; s47F
Cc: WALL Ruth; HALLINAN David; SPENCE Pip; VINE-CAMP Kerryn; MANSON Hilary;
s47F s47F 7F
s47F DLO McCormack; DLO
Subject: RE: MS20-001858 – Senate Order for the Production of Documents - Ten written
briefs referenced in the ANAO performance audit of the Leppington Triangle
purchase [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

s47F

Ministers Tudge and Cash have signed their respective correspondence, in line with the recommendations in the submission. Minister Cash's Office will provide the response to the Senate Tabling Officer shortly, which I understand will enable the President of the Senate to authorise the response prior to the deadline. The out-of-session tabling arrangements provide that the response will then be circulated to Senators via email.

I have not yet received the signed submission back from the Minister's Office but will provide it to you when I have it.

Thank you very much for your work on this, I know the Office appreciated the timely and considered advice.

Cheers

s47F

Departmental Liaison Officer
Office of the Hon Alan Tudge MP
Minister for Population, Cities and Urban Infrastructure

s47F

OFFICIAL:Sensitive

From: DLO Tudge
Sent: Monday, 16 November 2020 4:11 PM
To: s47F DLO Tudge <DLO.Tudge@infrastructure.gov.au>
Cc: WALL Ruth <Ruth.Wall@infrastructure.gov.au>; HALLINAN David <David.Hallinan@infrastructure.gov.au>;
SPENCE Pip <Pip.Spence@infrastructure.gov.au>; VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>;
MANSON Hilary <Hilary.Manson@infrastructure.gov.au>; s47F
s47F

Subject: RE: MS20-001858 – Senate Order for the Production of Documents - Ten written briefs referenced in the
ANAO performance audit of the Leppington Triangle purchase [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Many thanks

s47F

I will progress with the Office and make the relevant arrangements with the Senate Tabling Officer when agreed.

Kind regards

s47F

Departmental Liaison Officer
Office of the Hon Alan Tudge MP
Minister for Population, Cities and Urban Infrastructure

s47F

OFFICIAL:Sensitive

From: s47F

Sent: Monday, 16 November 2020 4:08 PM

To: DLO Tudge <DLO.Tudge@infrastructure.gov.au>

Cc: WALL Ruth <Ruth.Wall@infrastructure.gov.au>; HALLINAN David <David.Hallinan@infrastructure.gov.au>;
SPENCE Pip <Pip.Spence@infrastructure.gov.au>; VINE-CAMP Kerryn <Kerryn.VINE-CAMP@infrastructure.gov.au>;
MANSON Hilary <Hilary.Manson@infrastructure.gov.au>; s47F

s47F

Subject: MS20-001858 – Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s47F

Please see the attached copy of *MS20-001858 – Senate Order for the Production of Documents - Ten written briefs referenced in the ANAO performance audit of the Leppington Triangle purchase*.

This has also been sent through the PDMS system.

Kind regards

s47F

Assistant Director
Assurance Taskforce
Department of Infrastructure,
Transport, Regional Development and
Communications

s47F

GPO Box 594, Canberra ACT 2601



Australian Government

**Department of Infrastructure, Transport,
Regional Development and Communications**

The department proudly acknowledges the Traditional Owners and Custodians of Australia, and their continuing connections to the land, waters and communities. We pay our respects to them and to their Elders past, present and emerging.

WALL Ruth

From: WALL Ruth
Sent: Wednesday, 18 November 2020 10:14 PM
To: s47F
Subject: Fwd: Political Alert - 'Leppington Triangle' land - Senate orders for production of documents (FED) [SEC=OFFICIAL]
Attachments: 323X1301.PDF

OFFICIAL

FYI

OFFICIAL

From: "SPENCE Pip" <Pip.Spence@infrastructure.gov.au>
Date: Wednesday, 18 November 2020 at 10:12:54 pm
To: "WALL Ruth" <Ruth.Wall@infrastructure.gov.au>, s47F
s47F @infrastructure.gov.au, "VINE-CAMP Kerryn" <Kerryn.VINE-CAMP@infrastructure.gov.au>
Subject: FW: Political Alert - 'Leppington Triangle' land - Senate orders for production of documents (FED) [SEC=OFFICIAL]

OFFICIAL

In case you missed this

OFFICIAL

-----Original Message-----

From: CCH Parliament <politicalalert@cch.com.au>
Sent: Wednesday, 18 November 2020 3:01 PM
To: politicalalert@cch.com.au
Subject: Political Alert - 'Leppington Triangle' land - Senate orders for production of documents (FED)

Please find attached:

LEPPINGTON TRIANGLE' LAND - SENATE ORDERS FOR PRODUCTION OF DOCUMENTS (FED)

Letter to the President of the Senate from the Minister for Employment, Skills, Small and Family Business (Senator Cash), dated 18 November 2020, responding to the order.

323X1301

Total number of pages 3

SUPPORT: politicalalert@cch.com.au or 02 6273 2070 MAILBOX: <http://www.cchparliament.com.au>



Senator the Hon Michaelia Cash
Minister for Employment, Skills, Small and Family Business
Deputy Leader of the Government in the Senate

Reference: MC20-001858

Senator the Hon Scott Ryan
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

I write in response to Senate Order for the Production of Documents No. 861 (the Order) moved by Senator Murray Watt and Senator Glenn Sterle and agreed by the Senate on Thursday 12 November 2020.

As the Minister representing the Minister for Population, Cities and Urban Infrastructure, the Hon Alan Tudge MP, I enclose to this letter the Government's response to the Order, for tabling at your discretion.

Yours sincerely

Senator the Hon Michaelia Cash
17 / 11 / 2020

Encl. Correspondence from the Minister for Population, Cities and Urban Infrastructure, the Hon Alan Tudge MP.



The Hon Alan Tudge MP

Minister for Population, Cities and Urban Infrastructure

Ref: MC20-001858

Senator the Hon Scott Ryan
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

I refer to the Senate Order for the Production of Documents agreed by the Senate on Thursday 12 November 2020 (the Order), requiring the tabling of the ten written briefings on the acquisition of the Leppington Triangle land between the period November 2015 to November 2019 (including any annotations of decision makers), which are referenced in paragraph 4.1 on page 57 of Auditor-General Report No 9 2020-21 *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport* (the Report).

The documents specified in the Order will not be produced as I am advised that it would not be in the public interest to comply with the Order for the reasons set out below.

The Senate has recognised that where the provision of information would have the tendency to prejudice law enforcement investigations, public interest immunity (PII) may be invoked. This is reflected in Odgers' *Australian Senate Practice*, 14th edition, which states in chapter 19 that this ground may be invoked if it is 'established that there are investigations in progress by a law enforcement agency, such as the police, and the provision of the information sought could interfere with those investigations.' This is also reflected in paragraph 4.6.1 of the *Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters*, which notes that a PII claim may be made in relation to information which would, or might reasonably be expected to 'prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance'.

The Australian Federal Police (AFP) advised the Senate Legal and Constitutional Affairs Committee on 20 October 2020 that the matters which were the subject of the Report are under active investigation by the AFP. The investigation is in its early stages. Information provided to the Senate in response to an Order under Senate Standing Order 164 is tabled and published. The public disclosure of information concerning the matters under investigation by the AFP, including to the Senate, would have the potential to prejudice that investigation.

Public disclosure of such information could influence or inhibit the evidence of potential witnesses in the AFP investigation and disclose possible avenues of enquiry. Further, the disclosure of information concerning the matters under active investigation in the course of the proceedings of Parliament (which includes proceedings before the Committee) may create obstacles to the use of that information in any court or tribunal proceedings which might follow the investigation.

In this regard, the courts have recognised that public disclosure of matters which are the subject of an active investigation 'might inhibit the willingness of persons to volunteer information relevant to the investigation' and that the ability of investigating authorities to obtain 'the fullest possible information, without the persons volunteering such information being inhibited by any possible repercussions which might flow from the disclosure of the information' is to be protected¹.

I am also advised that it would also not be in the public interest to provide the documents specified in the Order because the documents are integral to an ongoing disciplinary investigation under the *Public Service Act 1999*. Disclosure of the documents may enable the identity of those subject to this investigation to be identified.

I trust this information is of assistance.

Yours sincerely

Alan Tudge

17 / 11 / 2020

¹ See *Dupont v Chief Commissioner of Police* [2015] FamCAFC 64; *Maloney v New South Wales Coursing Association Ltd* (1976) 3 ACLR 385; *Ryan v Victoria* [2015] VSCA 353.