



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-397
Date of Application	4 December 2024
Date of Decision	10 February 2025
Processing time (in working days)	42
Fees	N/A
Decision on Access	Refusal
<b>Information Requested (summary)</b>	Email correspondence related to football/soccer management (Canberra United) proposal.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

**From:** [REDACTED]  
**To:** [CMTEDD FOI](#)  
**Subject:** Re: CMTEDDFOI 2024-397 - Re: CMTEDDFOI 2024-247 - Decision  
**Date:** Thursday, 12 December 2024 2:30:00 PM  
**Attachments:** [image001.png](#)

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Lisa and team.

Yes I agree to the rescope, thank you.

Please let me know the outcome.

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**From:** CMTEDD FOI <CMTEDDFOI@act.gov.au>  
**Sent:** Wednesday, 11 December 2024 4:27 PM  
**To:** [REDACTED]  
**Cc:** CMTEDD FOI <CMTEDDFOI@act.gov.au>  
**Subject:** RE: CMTEDDFOI 2024-397 - Re: CMTEDDFOI 2024-247 - Decision

OFFICIAL: Sensitive - Personal Privacy

Good afternoon [REDACTED]

We have received your email below, where you have requested:

- *“an attachment mentioned in binder 2, page 18 [for CMTEDDFOI 2024-247]. It's an email chain 'Re: Canberra United Management Proposal', contained in which is a reference to said proposal being attached to an email sent from [REDACTED]. However this attachment is not part of the binder.”*

The attachment referred to in your email, below, was considered outside scope of the request CMTEDDFOI 2024-247, and was not attached to documents within scope of for CMTEDDFOI 2024-247.

We have conducted some preliminary enquiries. Your request seems to relate to an email exchange between third parties sent on 23 April 2024, at 8:13pm, which includes 2 attachments to that email.

Accordingly, we propose the following rescope:

- A copy of an email exchange on 23 April 2024 at 8:13pm with Subject: “CU Management Proposal”, including the attachments to that email. For background context, these documents were provided to Minister Berry’s Office.

Could you please reply to confirm your agreement to the rescope of your request, to confirm

these are the documents you are requesting, or set out any changes you want to the scope. After we receive confirmation from you we can issue a formal acknowledgment that includes confirmation as to where management of the request best sits.

This matter has been allocated reference number **CMTEDDFOI 2024-397**.

Kind regards

Lisa

**Information Access Team**

Phone: 02 6207 7754 | [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)

Chief Minister, Treasury and Economic Development Directorate | **ACT Government**

220 London Circuit, Canberra City | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

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**Sent:** Wednesday, 4 December 2024 12:15 PM

**To:** CMTEDD FOI <[CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au)>

**Subject:** CMTEDDFOI 2024-397 - Re: CMTEDDFOI 2024-247 - Decision

**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi FOI team,

After reviewing these documents, could I please make a supplementary request?

It's an attachment mentioned in binder 2, page 18. It's an email chain 'Re: Canberra United Management Proposal', contained in which is a reference to said proposal being attached to an email sent from [REDACTED]. However this attachment is not part of the binder.

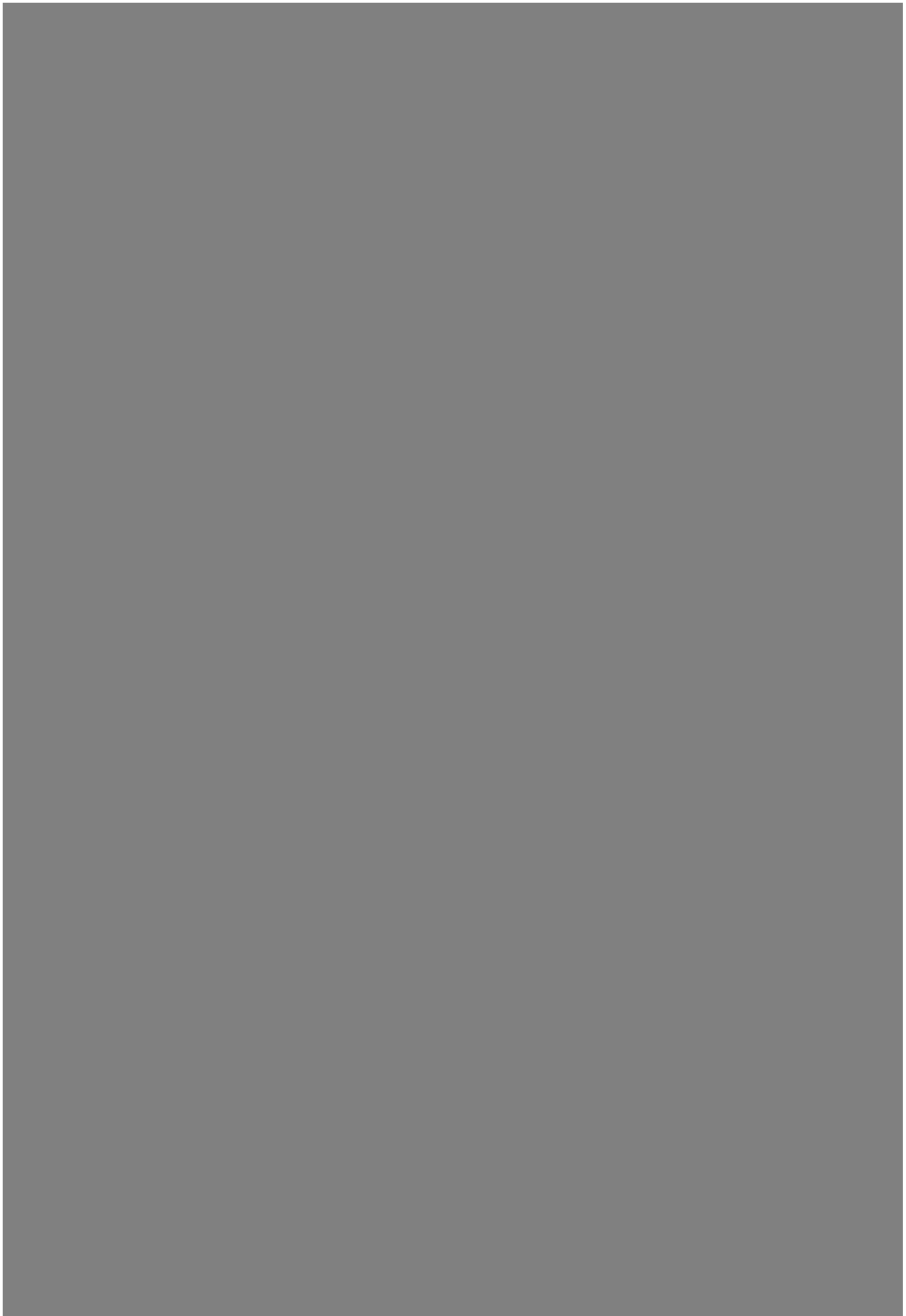
Not sure if this is a missing document, is outside of the initial scope of the FOI, or the sender is referring to (redacted) information forwarded in an email chain.

Visual reference below.

Hoping you can clarify and advise if I need to make an additional FOI request for the document in question?

Thanks

[REDACTED]







## FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 4 December 2024.

Specifically, you have sought access to the following information:

- *“After reviewing these documents [for CMTEDD FOI 2024-274], could I please make a supplementary request?*

*It's an attachment mentioned in binder 2, page 18. It's an email chain 'Re: Canberra United Management Proposal', contained in which is a reference to said proposal being attached to an email sent from [REDACTED]. However this attachment is not part of the binder.*

*Not sure if this is a missing document, is outside of the initial scope of the FOI, or the sender is referring to (redacted) information forwarded in an email chain.*

*Visual reference below.”*

On 12 December 2024, you confirmed your agreement to the following revised scope:

- *“A copy of an email exchange on 23 April 2024 at 8:13pm with Subject: “CU Management Proposal”, including the attachments to that email. For background context, these documents were provided to Minister Berry’s Office.”*

### Authority

I am an Information Officer appointed by the CMTEDD Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Under section 58(2)(c)(ii) of the Act I am the decision-maker on the release of the information within scope of the request.

### Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act. Therefore, a decision is due by **14 February 2025**.

## **Decision on access**

Searches of CMTEDD records have identified three documents within the scope of your request.

I have decided to grant **partial access** to one document and refuse access to two documents.

The records identified as relevant to your application are listed in the schedule enclosed at **Attachment A**. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

## **Release of documents**

The information being released to you is provided at **Attachment B**.

## **Statement of Reasons**

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request
- third party views
- *Human Rights Act 2004*
- information already available to you.

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in **Schedule 2** of the Act.

## **Exemptions claimed**

### **Schedule 1: Information taken to be contrary to the public interest.**

There were no Schedule 1 factors identified. Therefore, this has not been a factor in my decision.

### **Public Interest Test**

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, the public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

### **Schedule 2: Factors to be considered when deciding the public interest.**

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are

relevant to determine if release of the information contained within these documents is within the 'public interest'.

***Factors favouring disclosure (under Sch 2, Section 2.1 of the Act)***

Disclosing the information could reasonably be expected to do any of the following:

- Section 2.1(a)(i) - promote open discussion of public affairs and enhance the government's accountability.
- Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.
- Section 2.1(a)(iii) - inform the community of the government's operations, including the policies, guidelines and codes of conduct followed followed by the government in its dealings with members of the community.

Information within your requested scope includes email correspondence between third parties that was provided to an elected member of the ACT Legislative Assembly related to sporting activities. I am satisfied that the release of information could reasonably contribute to transparency and contribute to debate on such issues.

I have given the above factors some weight.

I am satisfied that these factors favouring disclosure carry some weight. However, these factors are to be balanced against the factors favouring nondisclosure.

***Factors favouring non disclosure (under Sch 2, Section 2.2 of the Act)***

Disclosure of the information could reasonably be expected to do any of the following:

- Section 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*.
- Section 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person
- Section 2.2(a)(xii) - prejudice an agency's ability to obtain confidential information
- Section 2.2(a)(xvi) - prejudice a deliberative process of government

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

Information within your requested scope included personal and business information of third parties that is held by the ACT government. The documents within scope of your request includes correspondence where ACT Government was not the sender or the receiver of the emails. I have taken this into consideration as the correspondence involves third parties that would be reasonably be concerned if the information was released.

Third parties were consulted on the release of the information and the third parties all objected to the release of the information. I have given significant weight to the objections to the release of the information being consulted on.

I note the information contained personal information, including personal and business contact information, including images of third party individuals. The information also contained confidential business information. Accordingly, I am satisfied that there is moderate weight to be afforded to redacting the information.

Having reviewed the information, I consider that the protection of an individual's right to privacy, is a significant factor. Release of information concerning individuals working within the ACT Public Service is generally not considered to prejudice the protection of an individual's right to privacy. In this case, the emails do not contain the names of ACT Public Servants. Where emails and mobile phone numbers of third parties may be used for home and work purposes, this information is redacted, as it could or would reasonably be expected to prejudice an individual's right to privacy under the *Human Rights Act 2004*. The documents also contain images of people embedded in the documents that would identify third parties. I have redacted these parts of the documents that would also be reasonable would be a breach of privacy.

While third parties contacting Ministers and the ACT Government, they do so on the basis that these communications will be done on a business-in-confidence basis. While third parties must appreciate that there is a need for transparency in government, I am satisfied that the release of the information may be prejudicial to any ongoing and future arrangements relating to soccer and other sporting activities being decided on. Accordingly, I have decided that it would be contrary to the public interest to release confidential business information, noting that third parties objected to the release of the information.

Those who do business with government must also recognise that governments have to balance the commercial interests of businesses with the principles of openness and transparency, and that the weight of the public interest in protecting business information will depend on a variety of factors, including how commercially sensitive the information is, its age, its current relevance and the extent to which it has entered the public domain.

Your request relates to the release of information and a decision made for CMTEDDFOI 2024-274. I note some information related to this request has been made publicly available, and the information has been published for CMTEDDFOI 2024-274 on the Disclosure log. The information is available here:

[https://www.cmtedd.act.gov.au/data/assets/pdf\\_file/0007/2597569/2024-247-Part-1.pdf](https://www.cmtedd.act.gov.au/data/assets/pdf_file/0007/2597569/2024-247-Part-1.pdf)

[https://www.cmtedd.act.gov.au/data/assets/pdf\\_file/0011/2597573/2024-247-Part-2.pdf](https://www.cmtedd.act.gov.au/data/assets/pdf_file/0011/2597573/2024-247-Part-2.pdf)

Information related to the current scope for CMTEDDFOI 2024-397 has been redacted. I have taken into consideration information that has already been refused access on the basis that the information was business-in-confidence information. I find that the communications and attachments contain information that would be prejudicial to the competitive commercial arrangements of ACT Government as releasing the information would be contrary to the public interest as it would prejudice the Territory's ability to obtain confidential information and ability to partake in negotiations that may financially benefit the Territory by disclosing information discussing business arraignments of third parties. I have taken into consideration the information includes recent information that

is not publicly known or publicly available, and the contents discusses arrangements of third parties, and not the ACT Government.

Having applied the test outlined in section 17 of the Act and deciding that release of personal and business information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

### **Charges**

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50.

### **Online publishing – Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a [disclosure log](#).

Your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published.

### **Ombudsman Review**

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

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) Review**

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

ACT Civil and Administrative Tribunal  
GPO Box 370  
Canberra City ACT 2601

Telephone: (02) 6207 1740

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

Should you have any queries in relation to your request please contact the Freedom of Information Team by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely

Handwritten signature of Emma Hotham, consisting of the letters 'EH' in a stylized, cursive font.

Emma Hotham

Information Officer

Chief Minister, Treasury and Economic Development Directorate

10 February 2025



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

Reference No.

CMTEDDFOI 2024-397

**Revised scope:**


- *"A copy of an email exchange on 23 April 2024 at 8:13pm with Subject: "CU Management Proposal", including the attachments to that email. For background context, these documents were provided to Minister Berry's Office."*

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Email chain	23/04/2024	Partial	Sch 2, s 2.2 (a)(ii) Sch 2, s 2.2 (a)(xi) Sch 2, s 2.2 (a)(xii)	No
2	3-4	Folio 1 Attachment - Letter	23/04/2024	Refused	Sch 2, s 2.2 (a)(ii) Sch 2, s 2.2 (a)(xi) Sch 2, s 2.2 (a)(xii) Sch 2, s 2.2 (a)(xvi)	No
3	5-11	Folio 1 Attachment - Profile	undated	Refused	Sch 2, s 2.2 (a)(ii) Sch 2, s 2.2 (a)(xi)	No
<b>Total No of Docs</b>						
3						

**From:** Sch 2.2(a)(ii)  
**Sent:** 23/04/2024 8:13 PM  
**To:** Sch 2.2(a)(ii)  
**Cc:** lips.com.au>  
**Subject:** CU Management Proposal  
**Attachments:** Sch 2.2(a)(ii), Sch 2.2(a)(xi)  
1.pdf

Sch 2.2(a)(ii), Sch 2.2(a)(xi), Sch 2.2(a)(xii)

Sch 2.2(a)(ii), Sch 2.2(a)(xi)







Sch 2.2(a)(ii), Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Sch 2.2(a)(xi)

Sch 2.2(a)(ii), Sch 2.2(a)(xi)

Sch 2.2(a)(ii), Sch 2.2(a)(xi)

Sch 2.2(a)(ii), Sch 2.2(a)(xi)

Sch 2.2(a)(ii), Sch 2.2(a)(xi)