Document Category: Ministerial Briefs

Title of document: Special Minister of State Question Time Briefs August 2021

Description of the information:

These Question Time Briefs contain some information the release of which would be contrary to the public interest. This information includes commercial in confidence arrangements, specifically contract variation costs and waived license fees. This information is not available for the reasons outlined below.

Decision

I have decided to redact some of the information contained in these Question Time Briefs.

This decision has been made under sections 24(2)(b) and (c) of the *Freedom of Information Act 2016* (**FOI Act**) on the basis that it is contrary to the public interest to disclose.

Statement of reasons

In reaching my access decision, I have taken the FOI Act into account:

Sections 24(2)(b) and (c) allow for the Decision to be withheld on the basis that:

- the disclosure would, on balance, be contrary to the public interest under the test set out in section 17.

Public Interest Test – Section 17

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

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.

Factors favouring disclosure (Schedule 2 section 2.1)

Taking into consideration the information contained in the Question Time Briefs, I have identified that the following public interest factors in favour of disclosure are relevant to determine if release of the information is within the 'public interest':

(a) disclosure of the information could reasonably be expected to do the following:

> *(i) promote open discussion of public affairs and enhance the government's accountability.*
>
> *(ii) contribute to positive and informed debate on important issues or matters of public interest.*

I consider that release of the Question Time Briefs may contribute to open discussion of public affairs and enhance the government's accountability and contribute to informed debate on matters of public interest. I consider there is a public interest in the subject of these briefs, and I am satisfied that its release would increase transparency and accountability of the government.

Factors favouring non-disclosure (Schedule 2 section 2.2)

As required in the public interest test set out in section 17 of the Act, I have also identified the following public interest factors in favour of nondisclosure that I believe are relevant to determine if release of the information is within the 'public interest':

(a) disclosure of the information could reasonably be expected to do any of the following:

(xi) prejudice trade secrets, business affairs or research of an agency or person.

Having reviewed the Question Time Briefs and noting the matters that are covered, I am satisfied that the release of the redacted information relating to the contract variation costs and waived license fees could reasonably be expected to prejudice the business affairs of the organisations. This factor carries significant weight when considered against the factors in favour of disclosure.

Having applied the test outlined in sections 17 of the Act, I have decided to release the Question Time Briefs with some information redacted. On balance, most of the information in the Question Time Briefs should be released, however I consider the information on the contract variation costs and waived license fees is contrary to the public interest information.

Authorised By:



Heather Johnston
Information Officer

16 September 2026

Special Minister of State
Question Time Briefs
August 2021

Ref No	Page number	Title	Status	Reason for Exemption
1	4	E-Invoicing – ACT Government	Full	n/a
2	6	ACT Auditor-General's Report Procurement Exemptions and Value for Money	Full	n/a
3	8	Manuka Oval Rectifications – Northern Camera Deck	Partial	Sch2.2(a)(xi)
4	10	Royal National Capital Agricultural Society (RNCAS) Support	Partial	Sch2.2(a)(xi)

This information is released under Section 23(a)(i) of the *Freedom of Information Act 2016* which requires the release of specified documents over five years old. Due to the age of the information being released it may not reflect current legislation or Government policy and phone numbers and webpages mentioned may not still be current.

Portfolio/s: Special Minister of State

e-Invoicing – ACT Government

Talking points:

- Currently, there is no mandated timeframe for ACT Government to implement e-Invoicing.
- While the Territory supports the Commonwealth's e-Invoicing initiative, the Territory's current automated invoice payment process is supporting business by processing and paying invoices within 14 days of receipt of a correctly rendered invoice. Where a supplier has a contract term which is less than 14 days, payments are made in accordance with that contract.
- The Territory will continue to work with the Commonwealth and other State and Territory jurisdictions on the e-Invoicing initiative.

Key Information

- As part of the Commonwealth Government's Digital Business Plan, the Commonwealth Government has announced that:
    - the Commonwealth will mandate e-Invoicing for all agencies by 1 July 2022, with over 80 per cent of invoices being able to be received electronically by 1 July 2021; and
    - it will also consult on options for mandatory adoption of e-Invoicing across all levels of government and by businesses.
- As part of the Territory's commitment to support business during the COVID-19 health emergency, the ACT Government reduced the standard payment terms from 28 days to 14 days. Currently all suppliers are paid within 14 days from the date of a correctly rendered invoice. Where a supplier has a contract term which is less than 14 days, payments are made in accordance with that contract.
- ACT Government payment times are tracked and currently 98 per cent of invoices are paid on time from the receipt of a correctly rendered invoice.
- A business case was previously submitted for the implementation of e-Invoicing, however, it was not approved due to competing priorities. A submission for funding will be submitted in the 2022-23 budget process.

Background Information

- e-Invoicing (or electronic invoicing) is the digital exchange of invoices directly between the accounting systems of a buyer and a supplier, using a proven international standard such as Peppol.

Cleared as complete and accurate:	30/07/2021	
Cleared for public release by:	Executive Group Manager Graham Tanton	Ext: 75757
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Lead Directorate:	Chief Minister, Treasury and Economic Development	
TRIM Ref:	CMTEDD2021/222	

QUESTION TIME BRIEF

- Widespread adoption of e-Invoicing can deliver significant benefits for Australian businesses by helping them reduce costs, improve productivity and get paid faster.
- On 22 February 2019 the Australian and New Zealand Prime Ministers issued a joint announcement on e-Invoicing confirming the two countries' intention to jointly adopt the Pan European Public Procurement On Line (PEPPOL) interoperability framework for Trans-Tasman e-Invoicing.

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QUESTION TIME BRIEF

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Portfolio/s: Special Minister of State

ACT Auditor-General's Report Procurement Exemptions and Value for Money

Talking points:

- The Government will consider its response in due course and so it is not appropriate at this time to pre-empt the outcome of those dliberations, other than t say that we expect all procurement activity to be undertaken in accordance with the provisions of the *Government Procurement Act 2001*, the Government Procurement Regulation and any relevant policy and guidance material.
- Agencies undertaking procurement are accountable for ensuring that value for money is pursued and evidenced in all procurement activities, including for procurements conducted under exemptions from quotation and tender.

Key Information

- The Auditor- General conducted an audit to assess the effectiveness of agencies' application of value for money principles when using an exemption from the quotation and tender thresholds in part 2 of the *Government Procurement Regulation 2007.* The Audit considered 33 procurements that utilised an exemption. These procurements represented the two highest value procurements undertaken in all Directorates and some agencies between March to September 2019 and March to September 2020.
- The audit found that agencies are effectively documenting the rationale for selecting a provider without an open and competitive process. The audit found some areas of improvement in relation to documenting value for money.
- The audit's recommendations aim to support agencies to improve the quality and comprehensiveness of procurement documentation and risk management in procurements using exemptions, as well as improve staff understanding of the importance of integrity and whole of life costs.
- The audit highlights the accountability of agencies undertaking procurement in ensuring that their procurement activities are consistent with the ACT Government procurement framework.

Background Information

- The audit found that exemptions to the tender and quotation thresholds set out in the *Government Procurement Regulation 2007* were used in approximately a fifth of all ACT Government procurements in the most recent three years. This equates to 770 procurements with an estimated value of approximately $395 million.
- The Government response to the audit is due in October 2021 and Procurement ACT will prepare a draft response for consideration in September 2021 in accordance with standard cabinet processes.

Cleared as complete and accurate:	19/07/2021	
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- The audit noted an overall high compliance with the reasoning for seeking an exemption from the quotation and tender thresholds. It identified, however, that the application and documentation of value for money assessments could be improved in relation to probity and ethical considerations, management of risk and optimising whole of life costs as described in section 22A of the *Government Procurement ACT 2001.*
- The recommendations largely focus on opportunities for greater promotion of Procurement ACT's existing offerings such as templates, fact sheets and the Probity in Procurement Guide, as well as the need for additional or more targeted training offerings. The four recommendations cover:
    - *Value for Money Documentation* – promotion of existing templates and training to support the use of them and the assessment of value for money in procurements using exemptions.
    - *Integrity in Procurement* – promotion of the Probity in Procurement Guide (2020) and training on probity risk assessment and monitoring conflicts of interest.
    - *Procurement Risk Assessments* –development of better practice guidance on the management of procurement risk and a review of the risk assessment template.
    - *Whole of Life Costs Policy* – the development of better practice guidance on optimising whole of life costs in procurements using exemptions.
- These recommendations build on Procurement ACT's work to uplift procurement capability across the ACT Government.
- Procurement ACT has an enhanced program of training and support initiatives which includes:
    - a suite of eLearning Modules, which includes a Probity in Procurement Module;
    - face to face, customised training sessions;
    - fact sheets and better practice guides;
    - procurement training bootcamps, which includes Value for Money Training for all Senior Executives across the ACT Government; and
    - a Procurement Capability Framework.
- It should be noted that agencies are not required to use Procurement ACT's services, and that Procurement ACT has no authority to compel agencies to use templates, guidance, or processes, or to otherwise comply with their legislative requirements.

QUESTION TIME BRIEF

CM2021/3250

Portfolio/s: Special Minister of State

Manuka Oval Rectifications – Northern Camera Deck

Talking points:

- The Territory entered into contract with Kane Constructions Pty Ltd (the contractor) through Major Projects Canberra (MPC) on 21 March 2019 for the design and construction of five new roof modules and a northern camera deck at Manuka Oval for the enhancement of spectator amenity and functionality of the oval.
- Following construction of the camera deck, key stakeholders raised concerns regarding the amount of movement in the deck. A long lens camera was used to test the stability of the camera deck and the footage was provided to NEP Group, broadcast overlay provider for Cricket Australia and AFL, for comment. NEP confirmed that the movement witnessed in the footage would impact International Cricket Council score review decision making and therefore needed to be further reduced.
- MPC have resolved with Kane key issues regarding deflection and operational requirements.
- The northern camera deck has been successfully utilised for all cricket content at Manuka Oval in December 2020 and January 2021 as well as AFLW and AFL events in March and April.

Key Information

- A defect notice was issued to the contractor. The defects have been rectified and the matter remains for contractual resolution between the Territory and Kane.
- The Certificate of Occupancy for the camera deck was received on 25 November 2020.
- The amendment to the DA was lodged and initially rejected by ACTPLA. Subsequently a meeting has been held between MPC and ACTPLA and they have agreed to accept the amendment.
- Kane Constructions issued MPC with letter of variation and notice of price for variation to the amount of Sch2.2(a)(xi)
- ACT Government Solicitor's (ACTGS) advice on the matter of the Variation Claim was received 28 January 2021. The preferred approach advised in the advice was that the Territory could agree to pay for the costs it would have reasonably been charged by the Contractor had the work been completed within the original timeframe.
- MPC sought VC's approval to engage the services of a Quantity Surveyor to advise on what the likely cost of construction would have been in accordance with ACTGS's advice. This came back at Sch2.2(a)(xi)

Cleared as complete and accurate:	20/07/2021	
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Lead Directorate:	Chief Minister, Treasury and Economic Development	
TRIM Ref:	CMTEDD2021/220	

- Based on the Quantity Surveyors report, MPC did not accept Kane's variation and issued a response to the claim with the offer to pay Sch2.2(a)(xi). Kane did not accept the response and provided a Notice of Issue. Kane have provided an updated variation of Sch2.2(a)(xi). This offer was not accepted and a counter offer of $320,175.58 ex GST was provided to Kane.
- The contingency funding left on the project is currently $333,000ex GST.
- Kane accepted the offer of $320,175.58 ex GST and the project has been closed.

Background Information

- The total cost of the project is $2.69 million. The construction contract was awarded to the Contractor for $1,917,627.
- MPC is managing the project on behalf of Venues Canberra.

QUESTION TIME BRIEF

CM2021/3250

Portfolio/s: Special Minister of State

Treasurer

Royal National Capital Agricultural Society (RNCAS) Support

Talking points:

- RNCAS wrote to the Territory on 9 September 2020 seeking an urgent meeting, noting their financial position. During the 2020 Election Caretaker period, the Territory met with RNCAS and an agreement was reached to defer repayments of outstanding debts to Venues Canberra until March 2021.
- The letter from Mr Rick Jones, President RNCAS to the Chief Minister's Office, noted that if the Territory were to call in this debt, RNCAS would be unable to continue trading.
- RNCAS wrote to Venues Canberra on 16 February 2021 with a proposed payment plan. Venues Canberra prepared a brief for the Treasurer and received approval to accept this payment plan.
- Venues Canberra have formally advised RNCAS of the acceptance of the payment plan.

Key Information

- On 15 December 2020, RNCAS announced that the 2021 Royal Canberra Show would not operate due to COVID-19 restricitons. Instead, cattle and dog events with less than 500 patrons went ahead on the designated weekend.
- The ACT Government announced an extension of the rent relief scheme for community and commercial tenants of ACT Government properties that are severely impacted by COVID-19. Severely impacted is described as unable to operate or a reduction of income of 50%.
- RNCAS was found eligible for a rent relief waiver for the period January – June 2021. As such, the Territory has foregone Sch2.2(a)(xi) in licence fees.
- As part of the ACT Government's stimulus package to support community and not-for-profit organisations, RNCAS received a waiver of their annual licence fee for the period April – December 2020.

Background Information

- For out years, any new model for the Royal Canberra Show may result in changes to RNCAS's annual fee.

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- The deferral of repayments from RNCAS to Venues Canberra until March 2021 should not result in cash flow issues for Venues Canberra. Venues Canberra received funding of $3.729 million in 2020-21 from the Treasury led COVID-19 omnibus cabinet submission.