

Ref. FOI2023/00011

Hon John Gardner MP
Member for Morialta
163 St Bernards Road
ROSTREVOR SA 5073

Email: [REDACTED]

Dear Mr Gardner

APPLICATION MADE UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the FOI Act) received by the Department for Industry, Innovation and Science (DIIS) on 10 March 2023, seeking access to:

“Correspondence, minutes or briefings received by the Department from the University of Adelaide or the University of South Australia regarding merger plans or proposals. Also any briefings, minutes, correspondence or other documents provided by the Department to the Minister or her office related to the proposed merger between the University of Adelaide or the University of South Australia.”

Date range from 1/12/2022 to 10/03/2023

A search for documents held by DIIS was undertaken and 13 documents and their associated attachments, totalling 23 documents, were discovered within scope of your application.

I have reviewed the documents and have determined to grant you partial access to eight documents and refuse access to 15 documents. The documents I am releasing to you are attached along with the document schedule setting out my determination.

No fees and charges are payable for the processing of this determination in accordance with Section 53(2)(b) of the FOI Act.

In compliance with Premier and Cabinet Circular PC045 - Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045), DIIS is required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application will be published on the DIIS website.

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Government
of South Australia

Department for Industry,
Innovation and Science

If you are dissatisfied with this determination, you have a legal right of review and appeal in accordance with Section 29 of the FOI Act. Your review and appeal rights can be found by visiting the State Records of South Australia website at: <https://www.archives.sa.gov.au/finding-information/sa-government-information/making-a-freedom-of-information-application> .

Yours sincerely



Rosanne Davies
ACCREDITED FOI OFFICER

21 April 2023

Encl: Document schedule and documents for release

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Freedom of Information Document Schedule

Agency: Department for Industry, Innovation and Science (DIIS)

Agency ref: FOI2022/00011

Documents: Correspondence, minutes or briefings received by the Department from the University of Adelaide or the University of South Australia regarding merger plans or proposals. Also any briefings, minutes, correspondence or other documents provided by the Department to the Minister or her office related to the proposed merger between the University of Adelaide or the University of South Australia.

Date range: From 1/12/2022 to 10/03/2023

| Doc No. | Brief Description of document | Date of Document | No. of Pages | Release (Full/Part/Refused) | Exemption Clauses / Determination |
|---------|-------------------------------|------------------|--------------|-----------------------------|--|
| 1 | Email Correspondence | 3/12/2022 | 2 | Refused | Clause 1(e) Cabinet Documents The document contains information that could disclose a deliberation or decision of Cabinet and is therefore exempt in accordance with Clause 1 of Schedule 1 of the FOI Act. |
| 1a | Attachment to Document 1 | 3/12/2022 | 4 | Refused | Clause 9(1)(i)(b) - Internal working documents If released, the draft version of the document could impair the integrity of the information in the final document, as well as the consultation process and relationship between the State Government and the universities. |
| 2 | Email Correspondence | 4/12/2022 | 7 | Refused | Clause 7(1)(c) – Documents affecting business affairs This document contains financial information provided to the Department by the university. In considering the public interest test, I have considered the public right to information against the need for government to maintain confidentiality of commercial and business information. It is important for the operations of government that the University has confidence in its dealings with government. I have determined that to release the document would be contrary to the public interest and disclosure would reveal |

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| | | | | | detail which is considered commercially sensitive to the universities concerned. |
| 2a | Attachment to Document 2 | 4/12/2022 | 1 | Refused | Clause 7(1)(c) – Documents affecting business affairs This document contains financial information provided to the Department by the university. In considering the public interest test, I have considered the public right to information against the need for government to maintain confidentiality of commercial and business information. It is important for the operations of government that the University has confidence in its dealings with government. I have determined that to release the document would be contrary to the public interest and disclosure would reveal detail which is considered commercially sensitive to the universities concerned. |
| 3 | Email correspondence | 4/12/2023 | 3 | Refused | Clause 1(e) Cabinet Documents The document contains information that could disclose a deliberation or decision of Cabinet and is therefore exempt in accordance with Clause 1 of Schedule 1 of the FOI Act. |
| 3a | Attachment to document 3 | 4/12/2023 | 4 | Refused | Clause 9(1)(i)(b) - internal working documents If released, the document could impair the integrity of the information in the final document, as well as the consultation process and relationship between the State Government and the universities. |
| 3b | Attachment to Document 3 | 4/12/2023 | 7 | Refused | Clause 1(a) and (b) - Cabinet documents This document is exempt in accordance with Clause 1 of Schedule 1 of the FOI Act. |
| 4 | Email correspondence | 5/12/2022 | 1 | Refused | Clause 7(1)(c)(i)(ii) Documents affecting business affairs This document contains information that has commercial value to the University as well as information about the business, professional and financial affairs of the University of Adelaide. In considering the public interest test, I have considered the public right to information |

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| | | | | | against the need for government to maintain confidentiality of commercial and business information. I have determined that to release the document would be contrary to the public interest. |
| 4a | Attachment to Document 4 | 5/12/2022 | 4 | Refused | Clause 9(1) Internal working documents If released, the draft document could impair the integrity of the information in the final document, as well as the consultation process and relationship between the State Government and the universities. |
| 5 | Email correspondence From UniSA to DIIS Subject: Re: University communications discussion - Statement of Cooperation | 8/12/2023 | 4 | Part | Out of Scope Information out of scope of this application as has been redacted. |
| 5a | Attachment to Document 5 | 8/12/2023 | 13 | Refused | Clause 9(1) Internal working documents If released, the draft document could impair the integrity of the information in the final document, as well as the consultation process and relationship between the State Government and the universities. |
| 6 | Email correspondence from Adelaide University to DIIS Subject: CONFIDENTIAL: supplementary information from University of Adelaide | 12/12/2022 | 1 | Part | Clause 6(1) Documents affecting personal affairs Mobile phone numbers have been redacted in accordance with clause 6(1) of the FOI Act. |
| 6a | Attachment to Document 6 | 12/12/2022 | 46 | Refused | Clause 7(1)(c)(i)(ii) Documents affecting business affairs This document contains information that has commercial value to the University as well as information about the business, professional and financial affairs of the University of Adelaide. In considering the public interest test, I have considered the public right to information against the need for government to maintain confidentiality of commercial and business information. I have determined that to release the document would be contrary to the public interest. Clause 13(1)(b)(i)(ii) Documents containing confidential material |

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| | | | | | This document was prepared for use by the University and provided to the Department in confidence as it contains information of commercial value to the University. In considering the public interest test, I have considered the public right to information against the need for government to maintain confidentiality of commercial and business information. It is important for the operations of government that the University has confidence in its dealings with government, I have therefore determined that to release the document would be contrary to the public interest. |
| 7 | Email correspondence from the University of Adelaide to DIIS Subject: RE: University Legislation | 18/01/2023 | 2 | Part | Out of Scope Information out of scope of this application as has been redacted. |
| 8 | Email Correspondence sent to the Deputy Premier's office from DIIS | 12/12/2022 | 2 | Part | Clause 6(1) Documents affecting personal affairs The name of the correspondent has been redacted in accordance with clause 6(1) of the FOI Act. Out of Scope Information out of scope of this application as has been redacted. |
| 8a | Attachment to Document 8 | 12/12/2022 | 1 | Refused | Clause 9(a)(i)(b) – Internal working document This document is a draft version and I have determined to refuse access in accordance with clause 9 of the FOI Act. Releasing a draft could impair the relationship and process of an agency providing advice to a minister. |
| 9 | Email Correspondence sent to the Deputy Premier's office from DIIS | 9/02/2023 | 2 | Part | Clause 6(1) Documents affecting personal affairs The name of the correspondent has been redacted in accordance with clause 6(1) of the FOI Act. Out of Scope Information out of scope of this application as has been redacted. |

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| 9a | Attachment to Document 9 | 9/02/2023 | 2 | Refused | Clause 9(a)(i)(b) – Internal working document This document is a draft version and I have determined to refuse access in accordance with clause 9 of the FOI Act. Releasing a draft could impair the relationship and process of agency providing advice to a minister. |
| 9b | Attachment to Document 9 Statement of Cooperation | 9/02/2023 | 10 | Refused | Section 20(1)(b) – Refusal of access The final Statement of Cooperation is available to download from the Department's website: https://www.diis.sa.gov.au/university |
| 10 | Email Correspondence from UniSA to DIIS Subject: Re: Future university contact point | 27/02/2023 | 2 | Part | Out of Scope Information out of scope of this application as has been redacted. |
| 11 | Email correspondence from UniSA to DIIS Subject: RE: Regular catch ups | 28/02/2023 | 2 | Part | Out of Scope Information out of scope of this application as has been redacted. |
| 12 | Email Correspondence Subject Re: Draft legislation | 5/03/2023 | 3 | Part | Out of Scope Information out of scope of this application as has been redacted. |
| 13 | Parliamentary Briefing Note | 10/03/2023 | 4 | Refused | Clause 17(c) Documents Subject to contempt etc This document was prepared for use in Parliament and is therefore exempt under clause 17(c) of the FOI Act. |

20—Refusal of access

(1) An agency may refuse access to a document—

- (a) if it is an exempt document; or
- (b) if it is a document that is available for inspection at that or some other agency (whether as part of a public register or otherwise) in accordance with Part 2, or in accordance with a legislative instrument other than this Act, whether or not inspection of the document is subject to a fee or charge; or

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- (c) if it is a document that is usually and currently available for purchase; or
 - (d) if it is a document that—
 - (i) was not created or collated by the agency itself; and
 - (ii) genuinely forms part of library material held by the agency; or
 - (e) if it is a document that came into existence before 1 January 1987.
- (2) Subsection (1)(e) does not permit an agency to refuse access to—
- (a) a document that contains information concerning the personal affairs of the applicant; or
 - (b) a document that is reasonably necessary to enable some other document (being a document to which the agency has given access under this Act) to be understood; or
 - (c) a document if 20 years have passed since the end of the calendar year in which the document came into existence.
- (4) If—
- (a) it is practicable to give access to a copy of a document from which the exempt matter has been deleted; and
 - (b) it appears to the relevant agency (either from the terms of the application or after consultation with the applicant) that the applicant would wish to be given access to such a copy,
- the agency must not refuse to give access to the document to that limited extent.

Exemption Clauses:

1—Cabinet documents

- (1) A document is an exempt document—
- (a) if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or
 - (b) if it is a preliminary draft of a document referred to in paragraph (a); or
 - (c) if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b); or
 - (e) if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or
 - (f) if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.
- (2) A document is not an exempt document by virtue of this clause—
- (a) if it merely consists of factual or statistical material (including public opinion polling) that does not—

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- (i) disclose information concerning any deliberation or decision of Cabinet; or
 - (ii) relate directly to a contract or other commercial transaction that is still being negotiated; or
 - (ab) merely because it was attached to a document described in subclause (1); or
 - (b) if 20 years have passed since the end of the calendar year in which the document came into existence.
- (2a) A document is not an exempt document by virtue of this clause if—
- (a) the document has been submitted to Cabinet by a Minister; and
 - (b) a Minister has certified that Cabinet have approved the document as a document to which access may be given under this Act.
- (3) In this clause, a reference to Cabinet includes a reference to a committee of Cabinet and to a subcommittee of a committee of Cabinet.

6—Documents affecting personal affairs

- (1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
 - (2) A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) the truth of which has not been established by judicial process and the disclosure of which would be unreasonable.
 - (3) A document is not an exempt document by virtue of subclause (1) or (2) merely because it contains information concerning the person by or on whose behalf an application for access to the document is made.
- (3a) A document is an exempt document if it contains matter—
- (a) consisting of information concerning a person who is presently under the age of 18 years or suffering from mental illness, impairment or infirmity or concerning such a person's family or circumstances, or information of any kind furnished by a person who was under that age or suffering from mental illness, impairment or infirmity when the information was furnished; and
 - (b) the disclosure of which would be unreasonable having regard to the need to protect that person's welfare.

7—Documents affecting business affairs

- (1) A document is an exempt document—
 - (a) if it contains matter the disclosure of which would disclose trade secrets of any agency or any other person; or
 - (b) if it contains matter—
 - (i) consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and
 - (ii) the disclosure of which—

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- (A) could reasonably be expected to destroy or diminish the commercial value of the information; and
 - (B) would, on balance, be contrary to the public interest; or
- (c) if it contains matter—
 - (i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and
 - (ii) the disclosure of which—
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and
 - (B) would, on balance, be contrary to the public interest.
- (2) A document is not an exempt document by virtue of this clause merely because it contains matter concerning the business, professional, commercial or financial affairs of the agency or other person by or on whose behalf an application for access to the document is made.
- (3) A document is not an exempt document by virtue of this clause if it is a contract entered into by the Crown or an agency after the commencement of this subclause.

9—Internal working documents

- (1) A document is an exempt document if it contains matter—
 - (a) that relates to—
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place,
 - in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and
 - (b) the disclosure of which would, on balance, be contrary to the public interest.
- (2) A document is not an exempt document by virtue of this clause if it merely consists of—
 - (a) matter that appears in an agency's policy document; or
 - (b) factual or statistical material.

13—Documents containing confidential material

- (1) A document is an exempt document—
 - (a) if it contains matter the disclosure of which would found an action for breach of confidence; or

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- (b) if it contains matter obtained in confidence the disclosure of which—
 - (i) might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and
 - (ii) would, on balance, be contrary to the public interest.
- (2) A document that is a contract entered into by the Crown or an agency after the commencement of this subclause is not an exempt document by virtue of subclause (1) unless—
 - (a) it contains matter the disclosure of which would, under a term of the contract, constitute a breach of the contract or found an action for breach of confidence; and
 - (b) that term of the contract has been approved by—
 - (i) in the case of a contract entered into by the Crown—a Minister; or
 - (ii) in the case of a contract entered into by a State Government agency—the responsible Minister for the agency; or
 - (iii) in the case of a contract entered into by an agency that is not a State Government agency—the agency.
- (3) Subject to subclause (4), a Minister may, by instrument in writing, delegate the power to approve a term of a contract under subclause (2) to a specified person or to the holder of a specified office.
- (4) A delegation under subclause (3) may be made subject to such conditions and restrictions as the Minister thinks fit and specifies in the instrument of delegation.
- (5) A delegation by a Minister under subclause (3) is revocable at will, and does not derogate from the power of the Minister to act personally in any matter.
- (6) If a Minister or agency approves a term of a contract in accordance with subclause (2), the Minister or agency must, as soon as practicable, notify the Minister administering this Act, in writing, of that fact.
- (7) The Minister administering this Act must, in a report under section 54, state the number of contracts containing terms approved in accordance with subclause (2) during the period to which the report relates.

17—Documents subject to contempt etc

A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—

- (a) constitute contempt of court; or
- (b) contravene any order or direction of a person or body having power to receive evidence on oath; or
- (c) infringe the privilege of Parliament.

Adams, Tania (DIIS)

From: Alan Brideson
Sent: Thursday, 8 December 2022 7:10 AM
To: Shepherd, Ryan (DIIS)

Out of scope

Subject: Re: University communications discussion - Statement of Cooperation
Attachments: image.png; DRAFT STATEMENT OF COOPERATION - Future University (CONFIDENTIAL)_VC endorsed_CUT_FN.pdf

Thanks Ryan

Sent from my iPhone, please excuse brevity.

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Adams, Tania (DIIS)

From: Bruce Lines
Sent: Monday, 12 December 2022 2:27 PM
To: Reid, Adam (DIIS)
Subject: CONFIDENTIAL: supplementary information from University of Adelaide
Attachments: Environmental scan prepared for University of Adelaide Council.pdf

Hi Adam,

I've left a voice message on your mobile number; this email relates. If you'd like additional context regarding the information then please feel free to give me a call.

Cheers, Bruce

Bruce Lines
Chief Operating Officer
University Operations

The University of Adelaide
Mitchell Building
Adelaide 5005

T. | M: **Clause 6(1)** | E.

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Adams, Tania (DIIS)

From: Peter Hoj
Sent: Wednesday, 18 January 2023 11:58 AM
To: David Lloyd (VC); Reid, Adam (DIIS)
Cc: Bruce Lines; Paul Beard; Heffernan, Fiona (DIIS); Giulia Bernardi
Subject: RE: University Legislation

Thanks Adam

Very happy to attend.

I suggest Bruce Lines comes with me. As we will have transition in our legal team soon, Bruce can advise whom he believes should come.

My office will liaise about times.


Peter

From: David Lloyd (VC)
Sent: Wednesday, January 18, 2023 11:31 AM
To: Reid, Adam (DIIS) Peter Hoj
Cc: Bruce Lines Paul Beard Heffernan, Fiona (DIIS)
Giulia Bernardi
Subject: RE: University Legislation

CAUTION: External email. Only click on links or open attachments from trusted senders.

Thanks Adam,
Many happy returns. Happy to meet on this topic whenever convenient, with our legal counsel joining me
David

Out of scope



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Adams, Tania (DIIS)

From: DIS:BusinessCoordination
Sent: Monday, 12 December 2022 9:22 AM
To: Deputy Premier Ministerials
Cc: Dunbar, Andrew (DIIS); Hunt, Karen (DIIS); Taylor, Alistair (DIIS); Pittman, Louise (DIIS); DIS:BusinessCoordination
Subject: RE: ISS22/00423 - Draft response request - Higher Education - Clause 6(1)
Attachments: ISS00423 - LETTER - Clause 6(1)
Categories: Tania

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Hi Claire

Please find attached a draft response for the A/Minister's consideration.


Kind regards
Tania

Tania Adams

Business Coordination & FOI

Department for Industry, Innovation and Science

Out of scope



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Adams, Tania (DIIS)

From: DIS:BusinessCoordination
Sent: Thursday, 9 February 2023 9:00 AM
To: Deputy Premier Ministerials
Cc: Hunt, Karen (DIIS); Dunbar, Andrew (DIIS); Bellizzi, Fiona (DIIS); DIS:BusinessCoordination
Subject: RE: IIS23/00021 - Draft response - Higher Education - Clause 6(1)
Attachments: Minister Close - LETTER IIS2300021.DOCX; Attachment - Statement of Cooperation.PDF
Categories: Tania

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Good morning

Please find attached draft letter for the Deputy Premier's consideration.

Kind regards
Tania

Tania Adams

Business Coordination & FOI

Department for Industry, Innovation and Science

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Adams, Tania (DIIS)

From: Jane Booth
Sent: Monday, 27 February 2023 4:53 PM
To: Hunt, Karen (DIIS);
Subject: RE: Future university contact point

Thanks Karen for getting in touch. We had heard from Peter and David you would be our key contact, which is great. Happy to catch up at any stage and in the meantime we will stay in contact with you.

All the best
Jane

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Adams, Tania (DIIS)


From: Jessica Gallagher
Sent: Tuesday, 28 February 2023 5:48 AM
To: Hunt, Karen (DIIS);
Cc: Tania Crisci
Subject: RE: Regular catch ups

Hi Karen

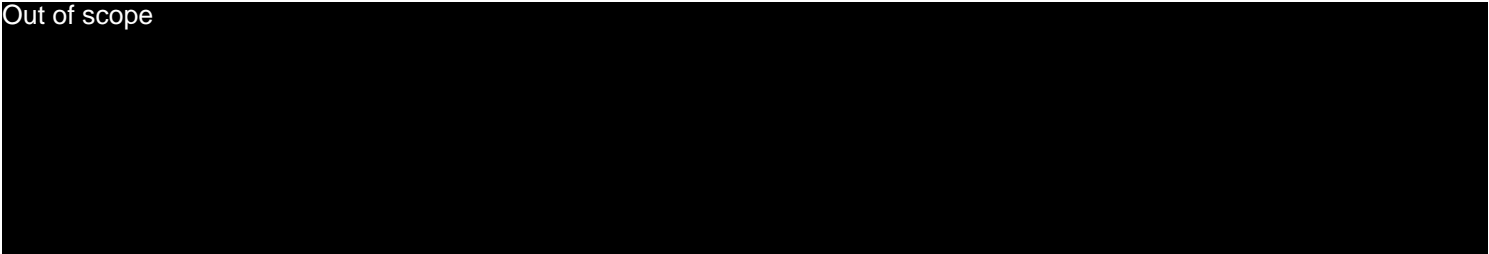
Thanks for your email. A monthly meeting would be great – the schedule is a little crazy over the next couple of weeks due to travel, but I'm sure that the team will be able to wrangle something for us. I have copied Tania in my office to assist.

Best regards
Jess

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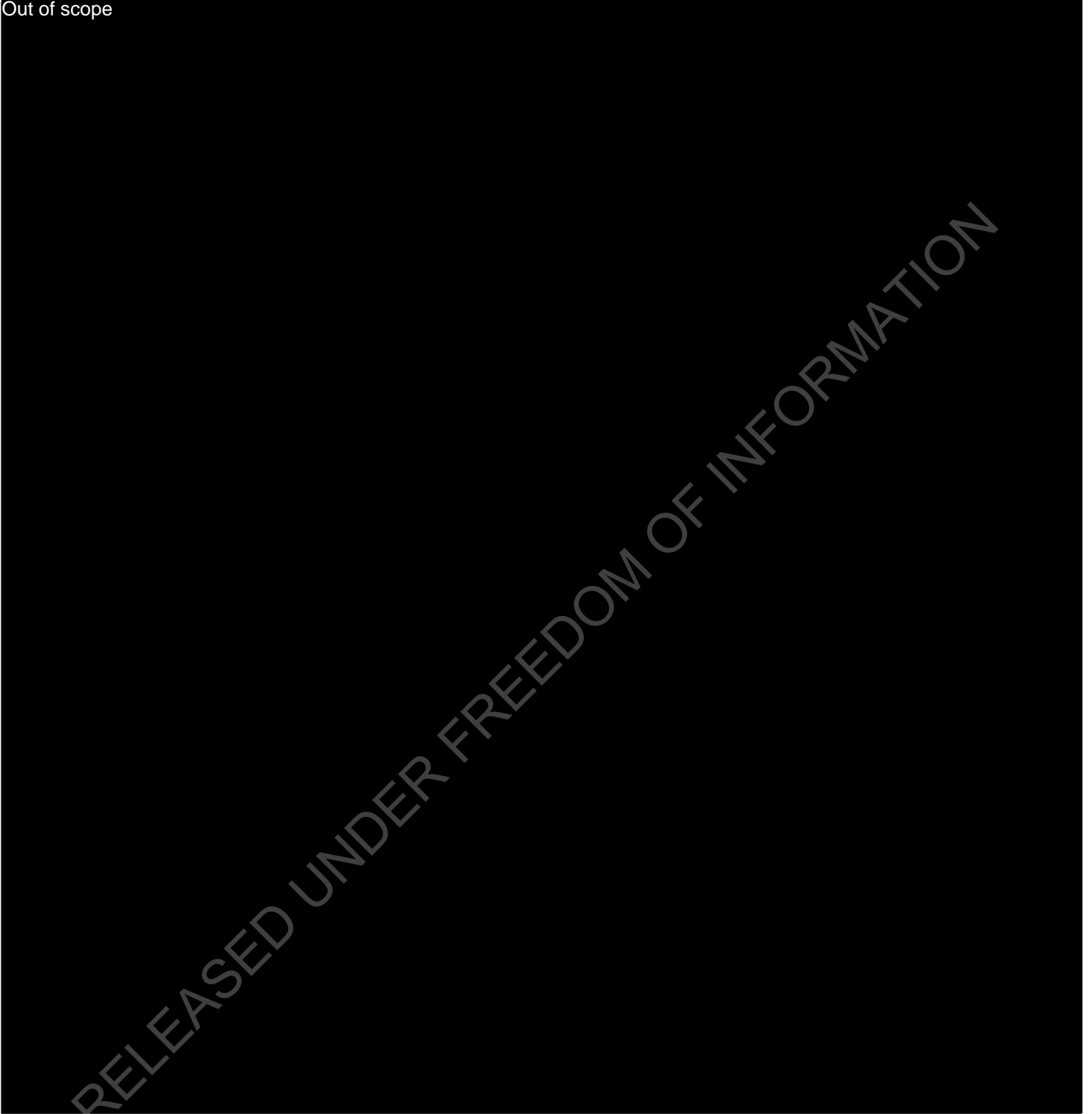
Out of scope



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Adams, Tania (DIIS)

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From: Bruce Lines

Sent: Friday, 3 March 2023 7:50 AM

To: Hunt, Karen (DIIS)

Cc: Jane Booth ; Pamela Thomson

Subject: Fwd: Draft legislation


Hi Karen,

Jane and I wondered if there might be value in us meeting to discuss where we are up to with legislation drafting. It might also be helpful to discuss the process around government funding. If you agree that would be worthwhile then I'll ask Pamela Thomson to find a suitable time for all three of us.

Cheers, Bruce
Bruce Lines
Chief Operating Officer
University of Adelaide

Begin forwarded message:

Out of scope



From: David Lloyd (VC)
Sent: Wednesday, 1 March 2023 4:19 PM
To: Hunt, Karen (DIIS)
Cc:

Jane Booth

Subject: Re: Draft legislation

Dear Karen

Greetings from India and Adelaide from myself and Peter. We very much appreciated the opportunity to catch up at the UA Conference and thank you for already reaching out to Bruce and Jane who will now ensure they are in regular contact with you. We are currently working with our broader legal team on the legislative and regulatory pathway considerations and specifically an indicative ETA for the draft legislation for your review. We appreciate you will need this as soon as possible to factor into your planning and so that we can work productively on this together. If you can bear with us for a couple of days, Jane and Bruce will contact you asap.


Many thanks

Peter and David


Co-VC team
University for the Future

Sent from a mobile device - please excuse brevity

Out of scope



Out of scope



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