



Department of  
Transport



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Our ref: A5381557

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Mr Ian Blayney MLA  
Chairman  
Economics and Industry Standing Committee  
Legislative Assembly Committee Office  
Parliament House  
PERTH WA 6000

By email: [laeisc@parliament.wa.gov.au](mailto:laeisc@parliament.wa.gov.au)



Dear Mr Blayney

**INQUIRY INTO THE MANAGEMENT OF WESTERN AUSTRALIA'S FREIGHT RAIL NETWORK:  
REQUEST FOR BRIEFING NOTES**

I refer to your letter dated 10 September 2014 requesting the complete and unredacted versions of all briefing notes referred to in my letter of 29 August 2014.

Firstly, as a preliminary matter, we have acted in accordance with the terms the Public Sector Commission's Circular 2010-03 entitled *Policy for Public Sector Witnesses Appearing Before Parliamentary Committees* in dealing with each of the documents requested by the Committee as we are obliged to do so as public sector officers.

In relation to the documents in question we can advise as follows:

- The Minister has directed me not to provide to the Committee, the Significant Issues Briefing Notes prepared for him when he was first appointed to the Transport portfolio and provided to him through the Cabinet Services Branch of the Department of the Premier and Cabinet.
- The information contained in the Significant Issues Briefing Notes is matters of high level policy which are usually discussed between Ministers at a Cabinet level. This material falls within the terms of Procedural Rule 13 of the Speakers Procedural Rules and we have confirmed with the Minister that questions concerning these documents and the contents of these documents should be put to the Minister.
- The Minister has also directed me not to provide to the Committee, the Contentious Issues Briefing Notes prepared for the Minister. Contentious Issues Briefing Notes (CIBN) are prepared by the Department to assist the Minister to prepare for Question Time and Debates in Parliament. The content and style of these CIBNs has been fairly consistent since 2002 and they are easily identifiable as they are headed CIBN and often are prepared to a standard format.

The nature of CIBNs was the subject of a decision of the Information Commissioner in *Re Saffioti and Minister for Transport; Housing* [2012] WAICmr 10 and he held that CIBNs contained matter was subject to Parliamentary privilege and to disclose them under the FOI Act would be contempt of that privilege. Whilst this case is only analogous, it does allow the Committee some insight into the nature of CIBNs and why it is not appropriate for these types of documents to be disclosed by me in response to a request from the Committee.

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In your request the Committee has also sought access to various other briefing notes which were provided to the Minister to update him on the Tier 3 Grain Rail Lines. Those briefing notes range from fairly standard matters to high level briefings on matters such as costings which would ultimately be put to Cabinet. Each briefing has been closely considered by the Department and by the Minister. In each case a decision has been made as to whether the briefing notes properly pertain to high level policy matters (such as contemplated by Procedural Rule 13) or not. Where they do not, or where that material can be redacted, we have provided the information to the Committee.

In relation to the two documents (attached) which I make an application to be dealt with in camera, I provide the following comments to the Committee:

- DoT6806 contains commercial in confidence information in relation to another entity seeking information from Government who are wanting to enter the market. If this information was released in any form then the impact on Government is that no business would willingly come to discuss options/projects prior to their implementation which would not be in the best interests of the State. The release of this information would not be in the competitive interests of the entity concerned.
- DoT7202 contains information that is incorrect or incomplete, as such the Minister for Transport subsequently did not approve the briefing note and returned it for further analysis.

I thank the Committee for the opportunity to clarify its request.

Yours sincerely

A handwritten signature in black ink, appearing to read "Reece Waldock". The signature is fluid and cursive, with the first letter of each word being significantly larger and more stylized than the others.

**Reece Waldock**  
Director General

17 /09/ 2014

Att

CC: Hon Dean Nalder MLA; Minister for Transport