



DEFENCE FOI 984/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), date and received on 14 June 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

A list of Ministerial Submissions from the Department of Defence to the Minister for Defence regarding PsiQuantum from 1 June 2022 to present. Please include, date, Title and Reference number. Please not this is a request for a list (not documents).

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. A document has been generated under section 17 of the FOI Act matching the description of the request whereby:

- a document was produced containing the information by using ‘a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information’ s17(1)(c)(i); and
- producing the document did not substantially and unreasonably divert resources of the agency from its other operations s17(2).

Decision

4. I have decided to partially release the document in accordance with section 22 of the FOI Act on the basis that certain information is exempt under section 47E [public interest conditional exemptions - certain operations of agencies] of the FOI Act.

Material taken into account

5. In making my decision, I had regard to:
- a. the terms of the request;
 - b. the content of the identified material in issue;
 - c. relevant provisions in the FOI Act; and
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

REASONS FOR DECISION

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

6. Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to an exempt document or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access.

7. I am satisfied that it is reasonably practicable to remove the exempt and irrelevant material and release the documents to you in an edited form.

Section 47E(d) - Certain operations of agencies

8. Section 47E(d) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

(c) have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.

9. The Guidelines, at paragraph 6.115, provide that:

The predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its operations in an expected manner.

10. It is a primary function of the Department to provide responsive, early visibility of matters, that may require a portfolio Minister's current or future consideration. It is imperative that any such briefing be provided in the most fulsome, timely manner possible, to ensure that the Minister and their staff are well-informed. The office of a Minister is at all times considering a significant volume of material presented by their portfolio agencies, in addition to matters relevant to their electorate and party political matters. It is appropriate that they be able to consider, and where necessary take forward these issues at the time most suited to them.

11. It could reasonably be expected that release of the conditionally exempt material would, or could reasonably be expected to adversely impact the proper and efficient conduct of the operations of the agency, as the Department may be required to substantially alter its submissions process. This could have significant detriment to the ability to proactively bring forward matters of potential interest to a Minister or their office.

12. The Guidelines provide, at paragraph 6.112, that I should consider whether disclosure of the information '*would, or could reasonably be expected to lead to a change in the agency's processes that would enable those processes to be more efficient.*' As identified above, I consider that any changes would not lead to efficiencies, and would instead increase the complexity and have an adverse effect on the agency's ability to undertake its operations.

13. Taking into account the above factors, I consider that the release of the information would damage the Defence's processes and is therefore conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations - Section 47E

14. Section 11A(5) of the FOI Act states:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

15. I have considered the factors favouring disclosure as set out in section 11B(3) [factors favouring access] of the FOI Act. The relevant factors being whether access to the document would:

- (a) *promote the objects of this Act (including all the matters set out in sections 3 and 3A);*
- (b) *inform debate on a matter of public importance;*
- (c) *promote effective oversight of public expenditure;*

16. I have assessed that disclosure of this information would have limited positive impact on public participation in the Defence process (section 3(2)(a) of the FOI Act). I further consider disclosure could have limited benefit to increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act). In making my assessment, I have considered the various publicly available information on Defence'

17. Paragraph 6.233 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice:

- The efficient conduct of the operations of the agency, including its management functions.
- The competitive commercial activities of an agency.

18. Please note that in weighing the factors in favour of disclosure against those against, I have not considered the irrelevant factors in accordance with section 11B(4).

19. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure, and that, on balance, it is against the public interest to release the documents to you. Accordingly, I find that the information is exempt under section 47E of the FOI Act.

Digitally signed by [REDACTED]

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Accredited Decision Maker
Defence Science and Technology Group
Department of Defence