



FOI 087/16/17 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

“I seek copies of all the documents comprising the Defence approved evaluation methodology for the Defence Infrastructure Panel 2017-2022 tender process that was released to market between June and August 2016. All active tenders under this process have now closed.

The documents of interest may be titled Defence Infrastructure Panel 2017-2022 Project Development and Delivery Plan and/or Evaluation Plan or similar. This request is inclusive of all amendments to the relevant document(s) since original delegate approval.

I also request a copy of the Objective configuration record for each document

I am not seeking the release of the following information:

- names or positions of personnel who are tasked with the evaluation of tenders*
- any dollar value reference*
- personal email addresses*
- signatures*
- mobile telephone numbers or*
- PMKeys numbers”*

FOI decision maker

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

Documents identified

3. I identified 12 documents as matching the description of the request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and Item number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:
- a. release 11 documents in full;
 - b. partially release one document in accordance with section 22(1)(a)(ii) [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy] and section 47 E [public interest conditional exemptions-certain operations of agencies] of the FOI Act; and
 - c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act.

Material taken into account

7. In making my decision, I had regard to:
- a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions in the FOI Act;
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines);
 - e. consultation with Directorate of Program Assurance and Environment & Engineering staff from within Defence's Estate and Infrastructure Group; and
 - f. advice received from third parties.

Reasons for decision

Section 47F - Personal privacy

8. Section 47F of the FOI Act states:

(1) A document is conditionally exempt if disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

9. In making my decision, I considered whether:
- a. the document contained personal information;
 - b. the disclosure of the personal information would be unreasonable; and
 - c. whether the disclosure of this information would, at this time, be contrary to public interest.
10. A footnote within the document at Item 1 includes reference to personal information of a Commonwealth Officer. While I consider it appropriate for the Commonwealth Officer's

name to be disclosed, the publishing of personal information that is not related to the duties of that Commonwealth Officer requires further examination. As a person's identity is apparent from the identified information, I have decided that it constitutes personal information.

11. In determining whether release of the above personal information is unreasonable, I took into account, inter alia:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt within the document; and
- c. the availability of the information from publicly accessible sources

12. Against these criteria, I found:

- a. the specific identified information is not well known;
- b. the persons to whom the information relates is not widely known to be (or to have been) associated with the matters dealt with in the documents; and
- c. the specific identified information is not available from publicly accessible sources.

13. After considering all of the above, I am satisfied that the specific identified information is conditionally exempt under section 47F of the FOI Act.

Sections 47F - Public interest considerations

14. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the guidelines provided by the Australian Information Commissioner, together with a range of factors that favour access to the document set out in section 11B(3) of the FOI Act.

15. While disclosure may promote some of the objects of the FOI Act, I do not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

15. I have decided that the release of the personal information contained in the report is not in the public interest. In making this decision, I have considered the personal information contained in Item 1 against the requirements of Section 47F(2) of the FOI Act. I consider that withholding the personal information does not detract from the report content, and releasing an edited version of the report will maintain the intent of the FOI Act.

Section 47E – Certain Operations of Agencies

16. Section 47E 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:

(a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;

(b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;

(c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;

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

17. The re-tendering of the Defence Infrastructure Panel is a significant business undertaking for Defence and Industry. Although tenders for the Defence Infrastructure Panel may have closed, the evaluation process is not expected to be complete until early 2017. The content of the items requested include information that may prejudice the evaluation of the tenders, including any negotiation and debriefing processes that may occur.

18. The disclosure of the evaluation criteria and weightings prior to the completion of the evaluation, including any negotiations, may interfere with Defence's proper conduct of the process.

19. I consider that Section 47E(d) is applicable in this circumstance and the information conditionally exempt.

Sections 47E - Public interest considerations

20. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the guidelines provided by the Australian Information Commissioner, together with a range of factors that favour access to the document set out in section 11B(3) of the FOI Act.

21. While disclosure may promote some of the objects of the FOI Act, I do not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities. Instead, I consider that release of the information may unintentionally subvert the integrity of the procurement process.

22. I have decided that the release of the evaluation criteria and weightings contained in the report is not in the public interest at the time of this decision.

Further Information

23. Some of the documents matching the scope of this request contained a dissemination limiting marker. As the documents are approved for public release the marker has been struck through.

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 craig.patterson4
 DN: c=AU, o=GOV, ou=DoD,
 ou=PKI, ou=Personnel,
 cn=craig.patterson4
 Date: 2016.11.09 10:23:33
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Craig Patterson
 Accredited Decision Maker
 Estate & Infrastructure Group

9 November 2016

FREEDOM OF INFORMATION REQUEST NO. 087/15/16

Item	Date	Document title	Author	Addressee	Number of pages	Document description	Decision under the Act	Reason for decision
1	30/5/16	Defence Infrastructure Panel Retender Procurement Plan	Pete Smith		24	Document	Partial access	<ul style="list-style-type: none"> ▪ partially release the documents in accordance with section 22(1)(a)(ii) <i>[access to edited copies with exempt or irrelevant matter deleted]</i> of the FOI Act, on the grounds that the deleted material is considered exempt under section 47F <i>[public interest conditional exemptions - personal privacy]</i> and 47E <i>[public interest conditional exemptions - certain operations of agencies]</i> of the FOI Act ▪ remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act
2	01/06/16	Amendment 1 to the Defence Infrastructure Project Procurement Plan (PPP)	Pete Smith		2	Minute	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant material as referred to in the scope of the

								request in accordance with section 22(1)(a)(ii) of the FOI Act
3	28/06/16	Amendment 2 to the Defence Infrastructure Project Procurement Plan (PPP)	Pete Smith	3	Minute	Full release	<ul style="list-style-type: none"> remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
4	11/07/16	Amendment 3 to the Defence Infrastructure Project Procurement Plan (PPP)	Pete Smith	2	Minute	Full release	<ul style="list-style-type: none"> remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
5	05/08/16	Amendment 4 to the Defence Infrastructure Project Procurement Plan (PPP)	Lisa Drummond	2	Minute	Full release	<ul style="list-style-type: none"> remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
6	22/08/16	Amendment 5 to the Defence Infrastructure Project Procurement Plan (PPP)	Caitlan Sutton	1	Minute	Full release	<ul style="list-style-type: none"> remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
7	31/05/16	Configuration Record for Item 1			Objective Screen Capture	Full release	<ul style="list-style-type: none"> remove irrelevant material as referred to 	

Enclosure 1
Schedule of documents

						in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act
8	01/06/2016	Configuration Record for Item 2	Objective Screen Capture	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
9	29/06/16	Configuration Record for Item 3	Objective Screen Capture	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
10	11/07/16	Configuration Record for Item 4	Objective Screen Capture	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
11	10/08/16	Configuration Record for Item 5	Objective Screen Capture	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act 	
12	13/09/16	Configuration Record for Item 6	Objective Screen	Full release	<ul style="list-style-type: none"> ▪ remove irrelevant 	

Capture

material as referred to
in the scope of the
request in accordance
with section
22(1)(a)(ii) of the
FOI Act