



DEFENCE FOI 220/22/23 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

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

“...relevant reports, briefings, and minutes created since May 1, 2022, on the impacts of inflation and exchange rate movements on the Defence budget”

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. I identified one document as matching the description of the request.

Decision

4. I have decided to:
- partially release one document in accordance with section 22 [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 47 [documents disclosing trade secrets or commercially valuable information]; and section 47G [public interest conditional exemptions – business] of the FOI Act.

Material taken into account

5. In making my decision, I had regard to:
- the terms of the request;
 - the content of the identified document in issue;
 - relevant provisions in the FOI Act;
 - the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
 - consultation with KPMG as a third party to the document.

Reasons for decision

Section 47 – Documents disclosing trade secrets or commercially valuable information

7. Section 47(1)(b) of the FOI Act provides that a document is an exempt document if its disclosure under the FOI Act would disclose information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
8. Subparagraph 47(1)(b) of the FOI Act states:
- (1) A document is an exempt document if its disclosure under this Act would disclose:*

...(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

9. The Guidelines at 5.204 state that to be exempt under s47(1)(b), a document must satisfy two criteria:
 - *the document must contain information that has a commercial value either to an agency or to another person or body, and*
 - *the commercial value of the information would be, or could reasonably be expected to be, destroyed or diminished if it were disclosed.*
10. I found information in the document as having commercial value to KPMG. The Methodology contained in the KPMG document has been developed by KPMG, is not publicly available and has been restricted to the Commonwealth and KPMG. Disclosure could reasonably be expected to benefit KPMG's competitors in winning future work. This would diminish commercial value by revealing specialists' information by releasing certain classified specialist industry methodology.
11. In view of the above, I consider the specified material to be exempt from release under section 47 of the FOI Act.

Sections 47G - Public interest conditional exemptions - business

6. Upon examination of the documents, I identified business information belonging to KPMG.
7. Section 47G of the FOI Act states:
 - (1) *A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:*
 - (a) *would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or*
8. Where access has been denied under section 47G(1)(a) of the FOI Act, I consider that the disclosure of the specified material contained in the document would have an unreasonable adverse effect on the commercial affairs of KPMG. The disclosure of this material would result in the release of information that is not in the public domain and have the effect of exposing the commercial sensitivities of KPMG to competing interests. KPMG have been consulted and objected to certain parts of the document, I agree with the objections.
9. I am satisfied that the specified information contained in the document is conditionally exempt under section 47G of the FOI Act. My public interest considerations are detailed below.

Public Interest Considerations - Section 47G

10. Section 11A of the FOI Act states:

(5) 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.

11. In assessing whether disclosure is on balance, contrary to the public interest, I considered the Guidelines together with a range of factors set out in section 11B(3) [public interest exemptions-factors favouring access] of the FOI Act, which favours access to a document:

- (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;*
- (d) allow a person to access his or her own personal information.*




12. I note that disclosure of the requested information may promote some of the objects of the FOI Act. However, disclosure of the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

13. Paragraph 6.22 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:


- a. an agency's ability to obtain confidential information;
- b. an agency's ability to obtain similar information in the future;
- c. the management function of an agency.

14. None of the factors listed in section 11B(4) of the FOI Act were taken into account when making this decision.

15. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure and the information exempt under section 47G of the FOI Act.

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 Date: 2022.12.15
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15 December 2022

Sonia 
Accredited Decision Maker
Defence Finance Group