



**DEFENCE FOI 147/21/22 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT**

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

*"1. The letter and/or email that was sent to Naval Group and/or French government agencies on or around 15 September 2021 that was referred to in the Department of Defence spokesperson's statement to Guardian Australia on 23 September 2021 ("On 15 September 2021, Naval Group was advised that the formal exit of a system review had been achieved as required under the contractual arrangements in place at the time.")*

*2. The precise date and time (AEST) that the above letter or email was sent."*

**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 two documents as matching the description of the request.

**Exclusions**

4. Personal email addresses, signatures, PMKeys numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

**Decision**

5. I have decided to partially release two documents 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] of the FOI Act;

**Material taken into account**

6. In making my decision, I had regard to:
- the terms of the request;
  - the content of the identified documents 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

- e. advice received from officers from the Future Submarine Program.

### **Reasons for decision**

#### **Section 47 – 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 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. I found information in the document having commercial value to Naval Group.

8. Disclosing the commercial arrangements agreed between Naval Group and the Commonwealth could reasonably be expected to benefit Naval Group's competitors in winning future work for which Naval Group is competing by revealing the terms that Naval Group is prepared to accept.

#### **Third party consultation**

9. I decided to consult with Naval Group as a third party regarding their information, which was contained in the documents.

**Kira.Jorgensen** Digitally signed by  
Kira.Jorgensen  
Date: 2021.10.01 13:10:58 +10'00'

Accredited Decision Maker  
Capability Acquisition and Sustainment Group