



Attachment C – Statement of Reasons – FOI19/016

This document, when read in conjunction with the Schedule of Documents at **Attachment B**, provides information about the reasons I have decided not to disclose certain material to you in response to your request for documents under the *Freedom of Information Act 1982* (FOI Act).

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

Section 22 of the FOI Act provides that an agency or minister can give access to an edited document, modified by deletions to ensure the edited copy does not disclose any information that would reasonably be regarded as irrelevant to the request for access.

I am satisfied that the material deleted under this section is irrelevant to your request.

Public Interest Conditional Exemptions

An agency or minister can refuse access to a document or part of a document that is conditionally exempt from disclosure under Division 3 of Part IV of the FOI Act. Documents which are conditionally exempt under Division 3 relate to the following categories:

- Commonwealth-State relations (section 47B)
- deliberative processes (section 47C)
- financial or property interests of the Commonwealth (section 47D)
- certain operations of agencies (section 47E)
- personal privacy (section 47F)
- business (other than documents to which s 47 applies) (section 47G)
- research (section 47H), and
- the economy (section 47J).

Where a document is assessed as conditionally exempt, it is only exempt from disclosure if disclosure would, on balance, be contrary to the public interest. The public interest test is weighted in favour of giving access to documents so that the public interest in disclosure remains at the forefront of decision making.

A single public interest test applies to each of the conditional exemptions. This public interest test includes certain factors that *must* be taken into account where relevant, and other factors which *must not* be taken into account.

The FOI Guidelines issued by the Office of the Australian Information Commissioner states the public interest test is considered to be:

- something that is of serious concern or benefit to the public, not merely of individual interest
- not something of interest to the public, but in the interest of the public
- not a static concept, where it lies in a particular matter will often depend on a balancing of interests
- necessarily broad and non-specific, and
- related to matters of common concern or relevance to all members of the public, or a substantial section of the public.

Brief information about each of the conditional exemptions applied when making a decision about disclosure of each of the documents to which you have requested access is set out below. Additional information about each of these conditional exemptions can be obtained from the Office of the Australian Information Commissioner *FOI Guidelines* available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions>.

Section 47C: Public interest conditional exemption—deliberative processes

Section 47C of the FOI Act conditionally exempts ‘deliberative material’. For the purposes of section 47C, deliberative material in the nature of, or relating to either:

- an opinion, advice or recommendation that has been obtained, prepared or recorded, or
- a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative processes of the government, an agency, or a Minister.

The exemption in section 47C does not apply to reports of scientific or technical experts, reports prescribed by regulations, or records or formal statements of the reasons for a final decision given in the exercise of a power or of an adjudicative function.

I am satisfied that the relevant material is an opinion, advice or recommendation that has been obtained, prepared or recorded, and is therefore conditionally exempt under section 47C of the FOI Act.

Under the FOI Act, access to conditionally exempt material must generally be given unless doing so would be contrary to the public interest.

In deciding whether to disclose the conditionally exempt material, I have considered the factors favouring access set out in subsection 11B(3). I have not taken into account any of the irrelevant factors listed in subsection 11B(4).

Of the factors favouring disclosure, I consider the release of the conditionally exempt material would:

- promote the objects of the FOI Act, including by:
 - informing the community of the Government’s operations
 - enhancing the scrutiny of government decision making

The FOI Act does not list any specific factors weighing against disclosure. However, the FOI Guidelines issued by the Information Commissioner under section 93A of the FOI Act provides a non-exhaustive list of factors against disclosure that the decision maker must consider in addition to any other relevant factors.

Of the factors relevant against disclosure, I consider the release of the conditionally exempt material could reasonably be expected to prejudice:

- prejudice the management function of an agency

On balance, I consider that the factors against disclosure outweigh the factors favouring access and that access to the conditionally exempt material would be contrary to the public interest.

Accordingly, I have decided not to disclose the material that is conditionally exempt under section 47C.