

# Attachment A – Reasons: Freedom of Information Request No. LEX3110

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## Authority

As a Manager, Corporate and Information Law, Legal and Procurement Branch, I am an authorised decision-maker under section 23 of the FOI Act.

## Retrieval process

To identify documents for your request, I arranged for relevant staff likely to be able identify documents to undertake a comprehensive search of the relevant electronic holdings used by the AEC.

## Relevant Documents

With regard to the Relevant Document I have decided:

- a) to grant access to an edited copy from which exempt matter has been deleted under section 47E of the FOI Act.

## Material taken into account

I have taken the following material into account in making my decision:

- a) the content of the documents that fall within the scope of your FOI Request;
- b) the FOI Act, specifically section 47E;
- c) the guidelines ('[FOI Guidelines](#)') issued by the Australian Information Commissioner under section 93A of the FOI Act;
- d) the [FOI Guidance Notes](#), July 2011 issued by the Department of Prime Minister and Cabinet; and
- e) the *Privacy Act 1988*.

For the reasons set out below, I have decided that the following exemption applies to the Relevant Document: section 47E.

## Section 47E – Certain operations of agencies

Section 47E of the FOI Act conditionally exempts a document if its disclosure would reasonably be expected to affect certain operations of agencies on one or more of the following grounds:

- a) prejudice to the effectiveness of procedures or methods for the conduct of tests, examinations or audits;
- b) prejudice to the attainment of the objects of particular tests, examinations or audits;
- c) a substantial adverse effect on the management or assessment of personnel; or
- d) a substantial adverse effect on the proper and efficient conduct of operations.

Section 47E(d) provides that a document is conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The functions of the AEC include the conduct of elections, requiring the AEC to maintain an impartial and independent electoral system and conduct audits into the electoral system processes and procedures.

The AEC engaged IV&V Australia to undertake a number of tests and examinations to assess the algorithm changes to EasyCount and provide assurances following the integrations of ECS with the Ballot Paper Reconciliation System.

The AEC experienced increased disinformation regarding the electoral system following the 2019 and 2022 federal election. Having the information to which the conditional exemption has been applied widely available, may result in people misunderstanding (willingly or otherwise) process undertaken by the AEC in reviewing the integrity of electoral operations, including Senate counting procedures. As such, disclosing information contained in certain parts of the Relevant Document could reasonably be expected to have a detrimental effect on the conduct of future elections.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the document would be contrary to the public interest, and it is therefore exempt from disclosure under the FOI Act.

I find that the document to which this conditional exemption is applied, is conditionally exempt in part under section 47E(d) of the FOI Act.