



**Australian Government**  
**Department of Defence**

Reference: BN17358388

**FOI 507/19/20 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:

*“The most significant document created since 1 March 2020 that outlines the impact of COVID-19 on ADF personnel, planning and processes;*

- The current authorised Business Continuity Plans;*
- The most recent ministerial brief relating to COVID-19 and ADF personnel; and*
- The creation of a table under s17 of the FOI Act that captures ADF personnel diagnosed positive (broken down by Service and location), the number of breaches of COVID isolation restrictions, the numbers of ADF personnel quarantined (broken down by Service and location).”*

*Personal email addresses, signatures, desk locations, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request are excluded from this request. Defence has only considered final versions of documents.*

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

**Decision**

4. I have decided to:
- a. release two documents in full;
  - b. partially release one document on the grounds that the deleted material is considered exempt under section 47E(d) [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)(b)(ii) of the FOI Act.

**Material taken into account**

5. 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); and

- e. advice provided by Joint Health Command.

## **Reasons for decision**

### **Section 47E – Certain operations of agencies**

6. Upon examination of the documents, I found that they contained information concerning the proper and efficient conduct of the operations of Defence, specifically in relation to the Defence Science and Technology Group. I found the material to be conditionally exempt under subsection 47E(d) of the FOI Act which states:

*A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following.....*

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

7. The Australian Information Commissioner has issued Guidelines under section 93A to which regard must be had for the purposes of performing a function, or exercising a power, under the FOI Act.

8. In relation to subsection 47E(d), the Guidelines explain that for this exemption to apply, the predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its expected activities in an expected manner.

9. The information, if released, could affect the integrity and efficacy of the Department of Defence's processes and procedures relating to the Defence Science and Technology Group. The release of this information could reasonably be expected to prejudice the research being undertaken by that Group.

10. Taking the above into account, I have decided that the material is therefore conditionally exempt under section 47E of the FOI Act.

### **Section 47E - Public interest considerations**

11. I have found that some of the identified material contained in the documents is conditionally exempt under section 47E of the FOI Act. Section 11A(5) of the FOI Act provides that, if a document is conditionally exempt, it must be disclosed 'unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest'.

12. In assessing whether disclosure is on balance, contrary to public interest, I considered the Guidelines together with a range of factors set out in section 11B(3) 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.*

13. I note that disclosure of the requested documents may promote some objects of the FOI Act, as information held by the Government is a national resource. However, disclosure of specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

14. While I consider that release of the material removed under section 47E may be of some interest to the applicant, the public interest is better served in protecting the information contained within these documents from release to the public at large.

15. 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, impede or harm:

- f. the protection of the environment;*
- h. an agency's ability to obtain confidential information;*
- n. the management function of an agency; and*
- o. the effectiveness of testing or auditing procedures.*

16. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and deem the information exempt under section 47E of the FOI Act.

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

#### **Further Information**

18. Defence continues to develop documents and capture data related to COVID-19, consequently the provision of finalised documents is limited at this time.

19. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through.

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Date: 2020.06.12 16:29:28 +10'00'

Mrs Joanne Groves  
Accredited Decision Maker  
Associate Secretary Group