



Objective Reference: BN19480839

**FOI 565/19/20 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:

*“Formal briefs and ministerial correspondence between the period 23 Jul 2019 to the date of this application, relating to the proposed Teddy Sheean Victoria Cross”*

**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 14 documents as matching the description of the request. I interpreted your request to not include general correspondence from members of the public, administrative emails and internal correspondence.

**Decision**

4. I have decided to partially release 14 documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] and section 47E(d) [certain operations of agencies] 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. consultation with the Department of Prime Minister and Cabinet and the Defence Honours and Awards Appeals Tribunal.

**Reason for decision - Section 47E(d) [certain operations of agencies]**

6. I have determined that part of two documents are exempt pursuant to subsection 47E(d) of the FOI Act which relevantly 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. In relation to subsection 47E(d) of the FOI Act, paragraph 6.123 of the FOI Guidelines states that, where a document relates to certain operations of an agency, the decision-maker

must address whether the predicted effect would bear on the agency's 'proper and efficient' operations; that is, the agency is undertaking its expected activities in an expected manner.

8. Having examined the documents, I consider that full release of the documents would or could substantially adversely affect the efficient conduct of Defence by deterring the provision of frank advice given in a professional capacity.

9. Given the above, I find that the full release of the documents could or would substantially affect the efficient operations of Defence. I therefore have decided that part of the document is conditionally exempt pursuant to subsection 47E(d) of the FOI Act.

### **General Considerations**

10. Section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations are set out below.

11. As part of my consideration on the relevant factors affecting the balance of public interest, I gave consideration to the objectives of the FOI Act, the FOI Guidelines, and the factors favouring access to documents set out at subsection 11B of the FOI Act.

12. I have considered all relevant considerations, and I am satisfied that the expected effect of disclosing the documents could, or would reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of Defence. Therefore, I am of the opinion that the factors favouring denying access to the document outweigh any of the factors supporting its disclosure. Accordingly, I find that on balance, the public interest is best served by not disclosing elements of the documents and by deeming the information exempt under subparagraph 47E(d) of the FOI Act.

### **Additional Information**

13. All documents have been declassified.

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Joanne Anderson  
Accredited Decision Maker  
Associate Secretary Group