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# Freedom of Information (FOI) request

Notice of Decision

Reference: FOI/2024/316

Trav S

Via email: [foi+request-12075-36c06cd1@righttoknow.org.au](mailto:foi+request-12075-36c06cd1@righttoknow.org.au)

Dear Trav S

I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 23 September 2024.

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

## Scope of request

You set out your request in the following terms:

- 1. A copy of each 'HOSM Application Form' the Department collected from each prospective awardee serving with the 'Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies'.*
- 2. A copy of the Department's correspondence to the Governor-General recommending any award of the HOSM or clasp to members of the 'Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies'.*
- 3. A document recording the number of 'HOSM Application Forms' the Department collected from prospective awardees claiming to have served with the 'Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies'.*
- 4. A document recording the number of persons the Department recommended the Governor-*

*General award the HOSM in recognition of their service with the 'Australian contingent to the humanitarian relief operation of GE Infrastructure, Water & Process Technologies'.*

*The date/time of the Department's correspondence is relevant to our request.*

## Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

## Material taken into account

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- the Guidelines issued by the Information Commissioner<sup>1</sup> (the Guidelines)
- the views of a third party consulted by the Department under section 27A.

## Documents in scope of request

The Department has identified 5 documents that fall within the scope of your request.

These documents are set out in the Schedule of Documents at **Attachment A**.

## Decision

I have decided to grant access in part, with exempt and irrelevant material deleted, on grounds the documents contain information exempt under:

- section 22(1)(a)(ii) – irrelevant material
- section 47F – personal information

### Reason for decision

My findings of fact and reasons for deciding that certain information is exempt or irrelevant is set out below.

#### 1. Section 47F - Public interest conditional exemption - personal privacy

Section 47F(1) of the FOI Act provides:

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<sup>1</sup> s 93A of the FOI Act

1. *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person*

For the purposes of the FOI Act, I note 'personal information' has the same meaning as in the *Privacy Act 1988*.

Having identified third party 'personal information' within the documents, I have considered the provisions of section 47F(2), which require me to have regard to:

- a. *the extent to which the information is well known;*
- b. *whether the person is known to be associated with the matters in the document*
- c. *the availability of the information from a public source; and*
- d. *any other matters relevant, for example if it is reasonable to suspect the person would expect their information to be released as part of an FOI request.*

The FOI Guidelines note at paragraph 6.138 that "the test of 'unreasonableness' implies a need to balance the public interest in disclosure of government –held information and the private interest in the privacy of individuals". The FOI Guidelines also notes what is considered unreasonable requires a consideration of all the circumstances. The other key factors for determining whether disclosure is unreasonable include:

- a. *the author of the document is identifiable*
- b. *the documents contain third party personal information*
- c. *release of the document would cause stress on the third party*
- d. *no public purpose would be achieved through release.*

The documents contain the name and personal information of third parties. I have considered the circumstances and find the individuals are not necessarily known to be associated with the matters in the document. I have also had regard to other relevant matters as per section 47F(2)(d), including the fact these individuals would likely not expect their information to be released as part of an FOI request.

Considering the above, and that individuals have not provided consent to the release their names and personal information, I find the release of this material constitutes an unreasonable disclosure of personal information (section 47F(2)).

I am satisfied parts of the requested documents are conditionally exempt under section 47F(1) of the FOI Act.

## **2. Public interest**

The FOI Act provides a conditionally exempt document must nevertheless be disclosed unless its disclosure would, on balance, be contrary to the public interest<sup>2</sup>. In determining whether its disclosure

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<sup>2</sup> section 11A(5)) of the FOI Act

would be contrary to the public interest, the FOI Act requires a decision-maker to balance the public interest factors.

As I have decided parts of Documents 1 to 5 are conditionally exempt, I am now required to consider the public interest factors, in doing so I have not taken into account the irrelevant factors as set out in section 11B(4) of the FOI Act, this includes:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss in confidence in the Commonwealth Government*
- b) access to the document could result in any person misinterpreting or misunderstanding the document*
- c) the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made*
- d) access to the document could result in confusion or unnecessary debate*

In applying the public interest, I have noted the objects of the FOI Act<sup>3</sup> and the factors favouring access as listed in section 11B(3) of the FOI Act. Having regard to the material before me and the circumstances of the documents found to be conditionally exempt, I am satisfied of the following:

- access would promote the objects of the FOI Act<sup>4</sup>
- the subject matter within the conditionally exempt documents does not seem to have the character of public importance, rather the matter has very limited scope and may only be of interest to a narrow section of the public
- the subject matter within the conditionally exempt documents does not offer any insights into public expenditure

The FOI Act does not set out any public interest factors against disclosure and require that agencies are to have regard to the Guidelines to work out if disclosure would, on balance, be contrary to the public interest<sup>5</sup>. The Guidelines contain a non-exhaustive list of factors that, depending on the circumstances of the documents found to be conditionally exempt, may weigh against disclosure.

The disclosure of the material which I have found to be conditionally exempt could reasonably be expected to prejudice the protection of an individual's right to privacy. Such disclosure would not advance the public interest in transparency or scrutiny of government activities, or expenditure.

After careful consideration of all relevant factors, I have decided that, on balance, the factors against disclosure outweigh those favouring disclosure. Accordingly, I am of the view disclosure of certain parts contained within Documents 1 to 5 would be contrary to the public interest.

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<sup>3</sup> section 3 of the FOI Act

<sup>4</sup> section 11B(3)(a) of the FOI Act

<sup>5</sup> section 11B(5) of the FOI Act

### 3. Deletion of irrelevant matter

Section 22 of the FOI Act authorises the Department to give access to an edited copy of a document if giving access to a document would disclose information that would be reasonably regarded as irrelevant to the request, and it is possible for the Department to prepare an edited copy, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 30 September 2024, the Department advised you of its policy to exclude the personal and direct contact details of officers not in the Senior Executive Service (SES) and any Ministerial staff, as well as any person's signature, and the mobile or direct numbers of SES officers, which are contained in documents that fall within the terms of an FOI request. This category of information is identified as irrelevant and documents can be modified by the Department to delete the irrelevant material.

Accordingly I am satisfied parts of the documents are irrelevant under section 22(1)(a)(ii) of the FOI Act. The remaining parts of the documents have been released to you as they are relevant to your request.

## Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

### Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after the date of this letter, please attach the reasons why you disagree with the decision.

Applications for review should be sent to [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

### Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days after the date of this letter. You can apply using the [OAIC Web Form](#).<sup>6</sup>

## FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the

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<sup>6</sup> <https://webform.oaic.gov.au/prod?entitytype=ICReview&layoutcode=ICReviewWF>

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Information Commissioner must be made in writing. You can make a complaint using the [OAIC Web Form](#).<sup>7</sup>

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

Yours sincerely



David Belgrove  
Assistant Secretary  
Parliamentary and Government Branch  
Department of the Prime Minister and Cabinet

21 November 2024

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<sup>7</sup> <https://webform.oaic.gov.au/prod?entitytype=Complaint&layoutcode=FOIComplaintWF>

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