



10 January 2025
FOI ref: 3750

Mr Harold Kitch
By email: foi+request-12095-00685cd7@righttoknow.org.au

Dear Mr Kitch,

FREEDOM OF INFORMATION REQUEST – DECISION

I refer to your request to Treasury on 28 September 2024 for access, under the *Freedom of Information Act 1982 (FOI Act)*, to the following:

Emails and notes from officials regarding Armaguard. I request the emails and notes as taken by Treasury staff who travelled with the Australian Banking Association and the RBA on their trip with McKinsey consultants.

I am an authorised decision maker under section 23 of the FOI Act.

Decision

The Treasury has identified five documents in the scope of your request, listed in the attached schedule. I have decided to refuse access to one document in full (Document 5). I have decided to release the remaining documents in part. My decision on each document is shown in the schedule.

The documents for release are attached, edited under section 22 of the FOI Act to delete material which is irrelevant to the scope of your request.

Further information regarding my decision is set out below.

Material Considered

The material to which I have had regard in making this decision includes the scope of the request and content of the documents subject to your request, the relevant provisions in the FOI Act and Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), and advice from subject matter experts within the Treasury.

Reasons for decision

Material deleted pursuant to Section 22

Section 22 of the FOI Act allows information that is irrelevant to your request to be deleted.

The documents in scope of your request contain the names of government employees. We informed you in our acknowledgement email that it is our usual practice not to include the personal information of government employees and invited you to inform us if you did not agree with us processing the request on this basis. As we did not hear from you, the personal information of government employees has been deleted under section 22 of the FOI Act.

The documents also contain material that is irrelevant to your request. This material has been deleted under section 22 of the FOI Act.

Material obtained in confidence – section 45

Section 45 of the FOI Act provides that a document is an exempt document if its disclosure would give rise to an action, by a person (other than an agency or the Commonwealth), for breach of confidence.

To found an action for breach of confidence, the following five criteria must be satisfied in relation to the information:

- it must be specifically identified;
- it must have the necessary quality of confidentiality;
- it must have been communicated and received on the basis of a mutual understanding of confidence;
- it must have been disclosed or threatened to be disclosed, without authority; and
- unauthorised disclosure of the information would have or will cause detriment.

Documents 1 to 5 contain business information provided to the Treasury by Prosegur as part of the European cash delegation trip with the Australian Banking Association (ABA) and the Reserve Bank of Australia (RBA).

Having considered the material contained in the documents, I am satisfied that they meet the requisite threshold of confidentiality. The documents, and information contained within, were provided on a mutual understanding of confidence, and confidentiality has been maintained. I am also satisfied that any proposed disclosure of the information under FOI would be unauthorised, and that disclosure would lead to detriment to Prosegur.

Accordingly, I am satisfied that the information contained in Documents 1 to 4 is exempt in part from disclosure under section 45 of the FOI Act. I also find that the information contained in Document 5 is exempt in full under section 45 of the FOI Act.

Agency operations – section 47E(d)

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

Documents 3 and 4 contain preliminary views from the Treasury that relate to ongoing stakeholder negotiations, and internal decision-making processes. The preliminary views do not constitute the formal views of the Treasury. Further, I find that disclosure of this information would detract from the ability of the Treasury to effectively partake in confidential negotiations with stakeholders and undertake deliberations over the proposed nature and timing of its policies and agreements.

I am therefore satisfied that disclosure of this information would have a substantial adverse effect on the proper and efficient conduct of the operations of the Treasury. I therefore find that Documents 3 and 4 are conditionally exempt in part under section 47E(d) of the FOI Act.

Business information – section 47G(1)(a)

Section 47G(1)(a) of the FOI Act relevantly provides that a document is conditionally exempt from disclosure to the extent that it contains business information that would be unreasonable to disclose.

Documents 1 to 5 contain material relating to the commercial strategies of Prosegur. This information is considered to be commercial in confidence, and is not publicly known. The disclosure of this information could reasonably be expected to provide business competitors with an unfair insight into Prosegur's business practices.

Accordingly, I am satisfied that the information contained in these documents could reasonably be expected to adversely affect Prosegur in respect of its business and commercial affairs. I therefore find that Documents 1 to 4 are exempt in part and Document 5 is exempt in full under section 45 of the FOI Act.

My consideration of the public interest is set out below.

Public Interest Test

Section 11A(5) of the FOI Act provides that conditionally exempt material must be released unless its disclosure would, on balance, be contrary to the public interest. Section 11B(3) sets out public interest factors favouring release, and section 11B(4) sets out factors that must not be taken into account. The FOI Guidelines set out factors in favour of, and against, releasing conditionally exempt material.

Paragraph 6.5 of the FOI Guidelines provides that the public interest test is considered to be something that is of serious concern or benefit to the public, not merely of individual interest, and related to matters of common concern or relevance to all members of the public, or a substantial section of the public.

In favour of disclosure, I consider access to the conditionally exempt material would promote the objects of the FOI Act. However, I discern no specific public interest to be served by disclosure.

Against release of the material conditionally exempt under section 47E(d) of the FOI Act, I have considered the public interest in maintaining the Treasury's ability to negotiate with stakeholders and effectively deliberate before providing confidential advice for government consideration.

Against release of the material conditionally exempt under section 47G(1)(a) of the FOI Act, I have considered the importance of maintaining Treasury's ability to engage businesses to assist in the carrying out of its functions, in circumstances where businesses may be hesitant to do so for fear of their business information or commercial strategies being made public.

On balance, I consider the public interest factors against disclosure outweigh the factors in favour of disclosure. I have decided that Documents 3 and 4 are exempt in part under section 47E(d) of the FOI Act. I have also decided Documents 1 to 4 are exempt in part and Document 5 is exempt in full under section 47G(1)(a) of the FOI Act.

Rights of Review

A statement setting out your rights of review in this matter is attached.

Disclosure Log

The Treasury publishes documents disclosed in response to FOI requests on the Treasury website. This is consistent with the arrangements established by section 11C of the FOI Act. In this instance, I consider that the documents released to you are appropriate for publication on the Treasury's FOI disclosure log.

Yours sincerely,

A handwritten signature in black ink that reads "Tim Baird". The signature is written in a cursive, slightly slanted style.

Tim Baird
Assistant Secretary
Financial System Division

FOI 3750 Document Schedule

Doc No.	Description	Decision
1.	Email – Day One Key Insights/Reflections	Release in part <ul style="list-style-type: none"> • Section 22 – irrelevant • Section 45 – material obtained in confidence • Section 47G(1)(a) – business information
2.	Attachment – Day One Notes from Trip	Release in part <ul style="list-style-type: none"> • Section 22 – irrelevant • Section 45 – material obtained in confidence • Section 47G(1)(a) – business information
3.	Email – Day Two Key Insights/Reflections	Release in part <ul style="list-style-type: none"> • Section 22 – irrelevant • Section 45 – material obtained in confidence • Section 47E(d) – agency operations • Section 47G(1)(a) – business information
4.	Attachment – Cash Delegation Trip Notes	Release in part <ul style="list-style-type: none"> • Section 22 – irrelevant • Section 45 – material obtained in confidence • Section 47E(d) – agency operations • Section 47G(1)(a) – business information
5.	Meeting Notes	Refuse in full <ul style="list-style-type: none"> • Section 45 – material obtained in confidence • Section 47G(1)(a) – business information

INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the FOI Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

An application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

An application for a review of the decision should be emailed to FOI@Treasury.gov.au.

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

An application for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

AND/OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.