



2 October 2018

[Redacted]

**In reply please quote:**

FOI Request: FA 18/06/00177  
File Number: ADF2018/64053

Dear [Redacted]

**Freedom of Information (FOI) request - Access Decision**

On 4 June 2018, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

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

**1 Scope of request**

You have requested access to the following documents:

*I would like to request access under the FOI Act to documents held by the Department of Home Affairs (or its predecessors the Dept of Immigration and Border Protection, Immigration and Citizenship etc.) relating to any of the following companies:*

*Paladin Solutions PNG Ltd  
Paladin Group Limited  
Paladin Holdings PTE Ltd  
Pomwan Paladin Security Ltd  
Pomwan Security Solution Ltd  
Pokapin Security Services  
Pokapin Enterprises Limited  
Pokapin Contracting Services Limited*

*The request can exclude emails, drafts, duplicates, documents which are already publicly available, documents consisting primarily of media reports or monitoring of media reports.*

On 18 June 2018 you agreed to revise the scope of your request to the following documents:

*Documents held by the Department which include the following company names Pomwan Paladin Security; Pomwan Security Solution; Pomwan Security Solutions; Pokapin Security Services; Pokapin Enterprises Limited; Pokapin Contracting Services Limited; Peren Investment; Peren Investments, excluding emails, drafts, duplicates, documents already publicly available, media reports or monitoring of media reports. .*

## **2 Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

## **3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- consultation responses from third parties consulted in accordance with the FOI Act
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

## **4 Documents in scope of request**

The Department has identified 10 documents as falling within the scope of your request. These documents were in the possession of the Department on 4 June 2018 when your request was received.

**Attachment A** is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

## **5 Decision**

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release six documents in part with deletions
- Exempt four documents in full from disclosure

## **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

## **6.1 Section 22 of the FOI Act – Access to edited copies with exempt or irrelevant matter deleted**

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

It is the Department's policy to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. I have also decided that the parts of the documents are exempt from disclosure. I have therefore prepared an edited copy of the documents, with the exempt and irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

## **6.2 Section 47 of the FOI Act – Documents disclosing commercially valuable information**

Section 47 provides that a document is an exempt document if its disclosure under this Act would disclose any information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

In determining whether the information within the documents is commercially valuable, I have had regard to the following factors:

- whether the information is known only to the person for whom it has value or, if it is known to others, to what extent that detracts from its intrinsic commercial value
- whether the information confers a competitive advantage on the person to whom it relates – for example, if it lowers the cost of production or allows access to markets not available to competitors
- whether a genuine "arm's-length" buyer would be prepared to pay to obtain that information
- whether the information is still current or out of date (noting that out of date information may no longer have any value)
- whether disclosing the information would reduce the value of a business operation or commercial activity, reflected perhaps in a lower share price.

I consider that documents numbered 2 to 9 contain information of a commercial value and that there is a reasonable likelihood that value would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

The information contained within the document includes financial information that was provided to the Department on a 'Commercial in confidence' basis and on the assumption that the information would be retained in confidence by the Department. The information is commercially valuable for the purpose of carrying on the commercial activities in which the entity is engaged. The information is not well known and confers a competitive advantage to the business entity. The information is relevant to the profitability or viability of a

continuing business operation. If the information were to be released, it could enable a competitor to obtain a commercial advantage over the entity.

In reaching my decision, I have consulted the affected third party under section 27A of the FOI Act. I have taken into consideration submissions received from the third party that the exempt information has commercial value to them and the value would be destroyed or diminished if the information was released.

I have therefore decided that documents numbered 2 to 9 are exempt in part or full from disclosure under section 47 of the FOI Act.

### **6.3 Section 47F of the FOI Act – Personal Privacy**

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties. The information within the documents would reasonably identify persons, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known;*
- *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do not consider that the information relating specifically to the third parties would be relevant to the broader scope of your request, as you are seeking access to documents for listed companies rather than information which wholly relates to other individuals.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether

disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

#### **6.4 The public interest – section 11A of the FOI Act**

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (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.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does have the character of public importance and that there may be broad public interest in the documents.
- I consider that an insight into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

Disclosure of the documents would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within the Department, promote scrutiny of government decision making or reveal the reasoning for a government decision. I consider these considerations as neutral.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- disclosure of the personal information which is conditionally exempt under **section 47F** of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy – in this case the senior executives of the relevant business entity who have executed or are named in the Agreements that form part of the FOI documents.

- The Department is committed to complying with its obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy and meets its obligations under the Privacy Act. I consider that this factor weighs heavily against disclosure of the personal information contained within these documents.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of 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 document 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.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents is not in the public interest and therefore exempt from disclosure under the FOI Act.

## **7 Legislation**

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

## **8 Your Review Rights**

### Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au)

OR

By mail to:  
Freedom of Information Section  
Department of Home Affairs  
PO Box 25  
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

**9 Making a Complaint**

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

**10 Contacting the FOI Section**

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).



**Authorised Decision Maker  
Department of Home Affairs**

**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS  
REQUEST UNDER FREEDOM OF INFORMATION ACT 1982**

**FOI request:** FA 18/06/00177

**File Number:** ADF2018/64053

	Date of document	No. of pages	Description	Decision on release	
1.	24/10/2014	1	Media release		s 22(1)(a)(ii)
2.	11/11/2014	37	Provision of Services Agreement - Wilson Security and Pomwan Paladin Security		S 22(1)(a)(ii) s 47(1)(b)
3.	31/12/2014	1	Pomwan Paladin Security - Profit and loss statement - 1 January 2014 to 31 December 2014	Exempt in full	s 47(1)(b)
4.	30/01/2015	7	Pomwan Paladin Security - PNG Certificate Permitting a Foreign Enterprise to Carry on Business Activity		s 22(1)(a)(ii) s 47(1)(b) s 47F(1)
5.	31/12/2015	1	20151231 - Pomwan Paladin Security - Profit and loss statement - 1 January 2015 to 31 December 2015	Exempt in full	s 47(1)(b)
6.	19/08/2016	104	Provision of Services agreement - Wilson Security and Pomwan Paladin Security		s 22(1)(a)(ii) s 47(1)(b)
7.	31/12/2016	1	Pomwan Paladin Security - Balance Sheet 31 December 2014 to 31 December 2016	Exempt in full	s 47(1)(b)
8.	31/12/2016	1	Pomwan Paladin Security - Profit and loss statement - 1 January 2016 to 31 December 2016	Exempt in full	s 47(1)(b)
9.	23/03/2017	3	Amending Agreement - Pomwan Paladin		s 22(1)(a)(ii) s 47(1)(b)
10.	18/01/2018	6	MOU - Paladin Solutions PNG Ltd and Peren Investment Ltd		s 22(1)(a)(ii)