

OFFICIAL

From: Sean Parnell <sean.parnell@brisbanetimes.com.au>
 Sent: Wednesday, 19 April 2023 2:54 PM
 To: FOI <FOI@infrastructure.gov.au>
 Subject: Re: FOI request 23-235 - seeking clarification of scope [SEC=OFFICIAL]

Thanks ^{s22(1)}_{(a)(ii)} that would be great.

On Wed, 19 Apr 2023 at 2:53 pm, FOI <FOI@infrastructure.gov.au> wrote:

OFFICIAL

Good afternoon Sean

Thanks very much for getting back to us.

Because the Classification Board is a separate FOI entity, we will need to proceed on the basis of two requests. As such, I suggest that we proceed with the following:

FOI 23-235 – Classification Board request:

All correspondence between the Queensland Police Service and the Classification Board, since March 9, 2023, regarding the book 'Gender Queer'.

FOI 23-248 – Department request:

All correspondence with/from the Department, since March 9, 2023, where it was acting on behalf of the Classification Board or as an intermediary, regarding the book 'Gender Queer'.

Any concerns with that, please let me know as soon as possible.

With kind regards

^{s22(1)(a)(ii)}

Freedom of Information Section

Assurance, Integrity, Risk and Governance Branch

Finance, Governance, Budget and Business Services Division

E: FOI@infrastructure.gov.au

T: +61 2 6274 6294

Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

GPO Box 594 Canberra, ACT 2601

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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infrastructure.gov.au

I would like to acknowledge the traditional custodians of this land on which we meet, work and live.

I recognise and respect their continuing connection to the land, waters and communities.

I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.

OFFICIAL

From: Sean Parnell <sean.parnell@brisbanetimes.com.au>
Sent: Wednesday, 19 April 2023 1:44 PM
To: FOI <FOI@infrastructure.gov.au>
Subject: Re: FOI request 23-235 - seeking clarification of scope [SEC=OFFICIAL]

Hi s22(1)
(a)(ii) sorry for the delay,

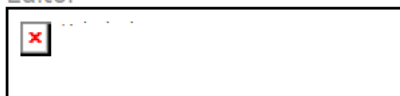
The reference to the arts department was simply intended to mean 'the department' without giving the formal name. I'll make that clear in any future applications.

I'd be happy with your suggestion of a revised scope, but wondered if it would include correspondence with/from the department where it was acting on behalf of the Classification Board or as an intermediary? There has been public reporting of the department playing a role.

Kind regards,

Sean Parnell

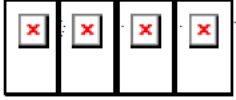
Editor



A Level 7 [140 Ann Street, Brisbane, QLD](https://www.infrastructure.gov.au/locations/brisbane), 4000
E sean.parnell@brisbanetimes.com.au

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P +61 7 3214 9867



On Tue, 18 Apr 2023 at 14:45, FOI <FOI@infrastructure.gov.au> wrote:

OFFICIAL

Good afternoon Mr Parnell

I refer to my email below and note that we do not appear to have received a response from you.

To enable your request to proceed, could you please contact me on the details below so we may clarify your request and ensure that it is processed in the most effective way possible.

Many thanks and with kind regards

s22(1)(a)(ii)

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OFFICIAL

From: FOI <FOI@infrastructure.gov.au>
Sent: Thursday, 13 April 2023 10:17 AM
To: Sean Parnell <sean.parnell@brisbanetimes.com.au>
Subject: RE: FOI request 23-235 - seeking clarification of scope [SEC=OFFICIAL]

OFFICIAL

Good morning Mr Parnell

I refer to your FOI request below, and seek to clarify the scope of your request. In doing so, the following may be useful to you:

- “The arts department” is not a current Commonwealth agency. The former Department of Communications and the Arts now forms part of this Department, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
- The Classification Board is a separate entity to the Department for the purposes of the FOI Act. This Department does however provide the Board with administrative support with that function.
- The Classification Board issued the following media release on 3 April 2023: [Media release—Classification of the publication Gender Queer A Memoir | Australian Classification](#)

I note that you have requested ‘all correspondence between the arts department and the Queensland Police Service, and, separately, between the arts department and the Classification Board, since March 9, 2023, regarding the book ‘Gender Queer’.’

Given the above, you may wish to consider revising the scope of your request to the following:

‘all correspondence between the Queensland Police Service and the Classification Board, since March 9, 2023, regarding the book ‘Gender Queer’.

If you agree to proceed on that basis, we will register the request as a request for the Classification Board, and will support the Board with the processing of the request.

If you wish to discuss or clarify anything, please do not hesitate to contact me on the details below.

With kind regards

s22(1)(a)(ii)

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OFFICIAL

From: Sean Parnell <sean.parnell@brisbanetimes.com.au>
Sent: Tuesday, 11 April 2023 4:18 PM
To: FOI <FOI@infrastructure.gov.au>
Subject:

Dear Sir/Madam,

I write seeking documents under the Freedom of Information Act, specifically all correspondence between the arts department and the Queensland Police Service, and, separately, between the arts department and the Classification Board, since March 9, 2023, regarding the book 'Gender Queer'.

I advise that I am not interested in duplicate copies of documents or documents that have already been publicly released, or media releases, media articles or media statements. I also reserve the right to withdraw this request should the information I seek be released under FOI to individuals or organisations prior to finalisation of my FOI application, and ask that I be notified accordingly. If the estimate of charges is excessive, I reserve the right to narrow the scope of this application or, alternatively, split it into separate parts. I would also prefer documents to be released electronically via email.

Finally, given policies on disclosure logs differ across government, and remain a subject for debate, I would ask that *Brisbane Times* be notified of the planned timing of the release of documents, and be given the full 10 business days allowed under the Act to research and prepare any articles for publication before the release is posted on any disclosure log. Brisbane Times would also appreciate the option of being able to place the application on hold at any stage, in accordance with the Act, if timing or other factors become an issue (as agencies do). Your assistance on these matters would also help your agency provide any background or clarifying information.

If I can be of any assistance with the processing of any aspect of these requests, please do not hesitate to contact

me on s47F or sean.parnell@brisbanetimes.com.au

Confirmation of receipt of this letter, and the scope of my request, would be appreciated.

Kind regards,

Sean Parnell

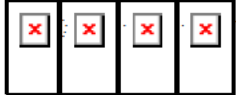
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Kind regards,

Sean Parnell

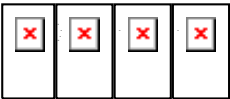
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s22(1)(a)(ii)

From: FOI
Sent: Thursday, 8 June 2023 10:39 AM
To: 'sean.parnell@brisbanetimes.com.au'
Subject: FOI request 23-248 - Decision [SEC=OFFICIAL]
Attachments: FOI 23-248 - Decision on access.pdf; FOI 23-248 - Documents for release.pdf

OFFICIAL

Good morning

I refer to your request below for access to documents under the *Freedom of Information Act 1982* (FOI Act).

Please find attached a decision in response to your request, together with the documents referred to in that decision.

Section 11C of the FOI Act requires publication of documents released under the FOI Act on the Department's FOI disclosure log, subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable. The documents released to you will be published on the disclosure log within 10 working days.

Regards

FOI Coordinator

Freedom of Information Section
 Assurance, Integrity, Risk and Governance Branch
 Finance, Governance, Budget and Business Services Division
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GPO Box 594 Canberra, ACT 2601

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OFFICIAL

From: FOI <FOI@infrastructure.gov.au>
Sent: Thursday, 20 April 2023 2:40 PM
To: Sean Parnell <sean.parnell@brisbanetimes.com.au>
Subject: FOI request 23-248 - formal acknowledgement of request [SEC=OFFICIAL]

OFFICIAL

Good afternoon Sean

Thank you for your email of 11 April 2023 requesting access to documents held by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) under the *Freedom of Information Act 1982* (FOI Act). I note that following consultation with you, we have agreed that the following scope will be processed by the Department:

"All correspondence with/from the Department, since March 9, 2023, where it was acting on behalf of the Classification Board or as an intermediary, regarding the book 'Gender Queer'."

This request has been allocated the reference number FOI23-248. Could you please ensure that you quote this reference number in all future correspondence with the Department.

I note that your request reference 23-235 will be processed separately by the Classification Board, with the Department providing administrative support to the Board for that purpose.

Timeframes

The statutory due date for you to receive a decision on your request is **11 May 2023**. This date may be extended in certain circumstances, and in the event that this occurs, the Department will notify you. Where the due date falls on a Saturday, Sunday or public holiday, the timeframe will expire on the next working day.

Other information

Please note that the Department considers the following information outside the scope of your request unless you specifically request it:

- personal information of third-party individuals; including public servants below the SES level and all email addresses, signatures and direct telephone numbers
- any duplicates and drafts of final versions of documents captured by your request
- any correspondence sent directly to or from you.

The Department may impose a charge for the work involved in providing access to the documents in accordance with the *Freedom of Information (Charges) Regulations*. You will be notified separately if the Department decides to impose a charge. There is no charge for documents that contain your own personal information.

Where documents are released to you under the FOI Act in response to your request, the Department must publish those documents on its FOI Disclosure Log within 10 business days of their release to you, unless they contain personal information or business affairs information that would be unreasonable to publish. Further information regarding the Department's FOI Disclosure Log can be found [here](#).

Should you have any questions relating to your request, please do not hesitate to contact the FOI Section via email to FOI@infrastructure.gov.au

With kind regards

s22(1)(a)(ii)

Freedom of Information Section
Assurance, Integrity, Risk and Governance Branch
Finance, Governance, Budget and Business Services Division
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Australian Government

**Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

Our reference: FOI 23-248

Sean Parnell
Editor
Brisbane Times

Via email: sean.parnell@brisbanetimes.com.au

Dear Sean,

Decision on your Freedom of Information Request

I refer to your request of 11 April 2023 to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department), seeking access to documents under the *Freedom of Information Act 1982* (FOI Act).

1 Your request

You requested access to:

"All correspondence with/from the Department, since March 9, 2023, where it was acting on behalf of the Classification Board or as an intermediary, regarding the book 'Gender Queer'."

2 Authority to make decision

I am authorised by the Secretary to make decisions in relation to Freedom of Information requests under section 23(1) of the FOI Act.

3 Material taken into consideration

In making my decision, I had regard to the following:

- the terms of your request
- the content of the documents captured by your request
- the provisions of the FOI Act
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)

- advice from departmental officers with responsibility for the subject matter contained in the documents captured by your request
- submissions from third parties consulted about documents which contain information concerning them

4 Decision

I have identified 9 documents that are relevant to your request. These documents were in the possession of the Department when your request was received.

I have decided to:

- grant access in full to relevant information in 3 documents
- grant partial access to 6 documents

A schedule setting out the documents relevant to your request, with my decision in relation to those documents, is at **ATTACHMENT A**.

My reasons for refusing access to information that is relevant to your request are set out below.

5 Finding of facts and reasons for decision

My findings of fact and reasons for deciding that the exemptions identified in the schedule of documents apply to the parts of documents are set out below.

5.1 Section 47F – Documents affecting personal privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Personal Information

Personal information has the same meaning as in the Privacy Act. Specifically, section 6 of the Privacy Act provides that *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.

Paragraph 6.131 of the FOI Guidelines states that for particular information to be personal information, an individual must be identified or reasonably identifiable.

Paragraph 6.130 of the FOI Guidelines states that personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.

An individual is a natural person rather than a corporation, trust, body politic or incorporated association.

I am satisfied that parts of the documents marked 's47F' includes personal information about a number of individuals.

Unreasonable Disclosure of Personal Information

Section 47F(2) of the FOI Act provides that, in determining whether the disclosure would involve the unreasonable disclosure of personal information, I must have regard to the following matters:

- (a) the extent to which the information is well known
- (b) 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
- (c) the availability of the information from publicly accessible sources
- (d) any other matters that the agency or Minister considers relevant.

Paragraph 6.138 of the FOI Guidelines states that:

The personal privacy exemption is designed to prevent the unreasonable invasion of third parties' privacy. 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 test does not, however, amount to the public interest test of s 11A(5), which follows later in the decision making process. It is possible that the decision maker may need to consider one or more factors twice, once to determine if a projected effect is unreasonable and again when assessing the public interest balance.

I note that the AAT, in *Re Chandra and Minister for Immigration and Ethnic Affairs [1984]* AATA 437 at paragraph 259, stated that:

... whether a disclosure is 'unreasonable' requires ... a consideration of all the circumstances, including the nature of the information that would be disclosed, the circumstances in which the information was obtained, the likelihood of the information being information that the person concerned would not wish to have disclosed without consent, and whether the information has any current relevance ... it is also necessary in my view to take into consideration the public interest recognised by the Act in the disclosure of information ... and to weigh that interest in the balance against the public interest in protecting the personal privacy of a third party ...

Paragraphs 6.142 and 6.143 of the FOI Guidelines state:

6.142 Key factors for determining whether disclosure is unreasonable include:

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

6.143 As discussed in the leading s 47F IC review decision of *'FG' and National Archives of Australia [2015]* AICmr 26, other factors considered to be relevant include:

- the nature, age and current relevance of the information
- any detriment that disclosure may cause to the person to whom the information relates
- any opposition to disclosure expressed or likely to be held by that person
- the circumstances of an agency's collection and use of the information

- the fact that the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act
- any submission an FOI applicant chooses to make in support of their application as to their reasons for seeking access and their intended or likely use or dissemination of the information, and
- whether disclosure of the information might advance the public interest in government transparency and integrity

I am satisfied that the disclosure of personal information contained within the documents would, in the circumstances, constitute an unreasonable disclosure of personal information for the following reasons:

- the personal information that is conditionally exempt is not well known
- the person to whom the information relates is not known to be (or to have been) associated with the matters dealt with in the document
- the information is not available from publicly accessible sources
- the individuals whose personal information is contained in the documents are identifiable
- release of this information would cause anxiety to the individuals concerned
- no further public purpose would be achieved through the release of the personal information
- the information is current and has not lost its sensitivity through the passage of time
- the individuals would not expect the information to be placed in the public domain, and detriment may be caused to the individuals to whom the information relates, and
- the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act.

I have consulted with affected third parties regarding the disclosure of their personal information, and I have considered any concerns raised by those individuals during the course of making my decision.

For the reasons outlined above, I decided that the parts of the documents marked 's47F' are conditionally exempt from disclosure under section 47F of the FOI Act.

Where information is found to be conditionally exempt, I must give access to that information unless access at this time would, on balance, be contrary to the public interest. I have addressed the public interest considerations below.

5.2 Public interest considerations

Pursuant to section 11A(5) of the FOI Act, I must give access to conditionally exempt information unless access to that information at that time would, on balance, be contrary to the public interest. I have therefore considered whether disclosure of the conditionally exempt information would be contrary to the public interest.

I note that paragraph 6.5 of the FOI Guidelines states 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
- not something of interest to the public, but in the interest of the public
- not a static concept, where it lies in a particular matter will often depend on a balancing of interests
- necessarily broad and non-specific and
- relates to matters of common concern or relevance to all members of the public, or a substantial section of the public.

Factors favouring disclosure

Section 11B of the FOI Act provides that factors favouring access to conditionally exempt information in the public interest include whether access to that information would do any of the following:

- promote the objects of the FOI Act (including all matters set out in sections 3 and 3A)
- inform debate on a matter of public importance
- promote effective oversight of public expenditure
- allow a person to access his or her own personal information.

Having regard to the above, I consider that disclosure of the conditionally exempt information at this time:

- would provide access to documents held by an agency of the Commonwealth which would promote the objects of the FOI Act by providing the Australian community with access to information held by the Australian Government
- would inform debate on a matter of public importance
- would not promote effective oversight of public expenditure
- would not allow you access to your own personal information.

Factors weighing against disclosure

I consider that the following factors weigh against disclosure of the conditionally exempt information at this time, on the basis that disclosure:

- could reasonably be expected to prejudice the protection of a number of individuals' right to personal privacy
 - I note that the substance of the information that is relevant to your request has been released to you and disclosure of the personal information would not provide you with any further insight into the workings of government beyond that substantive information

In making my decision, I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act, which are:

- (a) access to the conditionally exempt information could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government
- (b) access to the conditionally exempt information could result in any person misinterpreting or misunderstanding that information
- (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 conditionally exempt information could result in confusion or unnecessary debate.

Conclusion – disclosure is not in the public interest

For the reasons set out above, after weighing all public interest factors for and against disclosure, I decided that, on balance, disclosure of the conditionally exempt information would be contrary to the public interest. I am satisfied that the benefit to the public resulting from disclosure of the conditionally exempt information is outweighed by the benefit to the public of withholding that information.

5.3 Section 22 – deletion of irrelevant and/or exempt material

Section 22 of the FOI Act applies to documents containing irrelevant and/or exempt material and allows an agency to delete such material from a document.

I decided that the documents captured by your request contain material which can reasonably be regarded as irrelevant to your request. As such, an edited copy of those documents has been prepared in accordance with section 22(1)(a)(ii) of the FOI Act. This information is marked 's22' in the documents released to you.

The documents contain personal identifiers of public servants. When your request was acknowledged, we notified you that personal information of public servants below the SES level and all email addresses, signatures and direct telephone numbers would be considered irrelevant to the scope of your request unless you told us that you were expressly seeking access to that information. On the basis that you did not notify us otherwise, I decided this information is irrelevant to your request and it has been deleted under section 22 of the FOI Act as outlined above.

6 Legislative provisions

The FOI Act, including the provisions referred to in my decision, are available on the Federal Register of Legislation website: www.legislation.gov.au/Series/C2004A02562.

7 Your review rights

Your review rights in relation to this decision are set out at **ATTACHMENT B**.

8 Publication of material released under the FOI Act

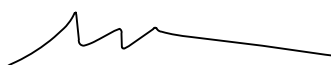
Where I have decided to release documents to you, the Department may also publish the released material on its Disclosure Log. The Department will not publish personal or business affairs information where it would be unreasonable to do so.

For your reference the Department's Disclosure Log can be found here: www.infrastructure.gov.au/about-us/freedom-information/freedom-information-disclosure-log.

Further information

If you require further information regarding this decision, please contact the Department's FOI Section at FOI@infrastructure.gov.au.

Yours sincerely



Maria Vassiliadis
Assistant Secretary
Classification Branch
Online Safety, Media and Platforms Division
7 June 2023

ATTACHMENT A.

SCHEDULE OF DOCUMENTS FOI 23-

Doc No.	Num of Pages	Date of document	Description of document	Decision on access	Provision of FOI Act
1.	1	09/03/2023	Email correspondence	Access granted in full to relevant information	s22
2.	2	N/A	Timeline	Access granted in part	s22 s47F
3.	1	15/03/23	Letter	Access granted in part	s47F
4.	1	17/03/2023	Email correspondence	Access granted in part	s22 s47F
5.	2	17/03/2023	Letter	Access granted in part	s22 s47F
6.	3	22/03/2023	Email correspondence	Access granted in part	s22 s47F
7.	1	24/03/2023	Email correspondence	Access granted in full to relevant information	s22
8.	2	22/03/2023	Email correspondence	Access granted in part	s22 s47F
9.	1	22/03/2023	Email correspondence	Access granted in full to relevant information	s22

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ATTACHMENT B.**YOUR REVIEW RIGHTS**

If you are dissatisfied with my decision, you may apply for a review of it.

Internal review

You can request an internal review within 30 days of receiving this decision. An internal review will be conducted by a different departmental officer from the original decision-maker.

No particular form is required to apply for review although it will assist the Department if you are able to set out the grounds on which you believe that the original decision should be changed.

Applications for internal review can be sent to FOI@infrastructure.gov.au

If you choose to seek an internal review, you will also have a right to apply for Information Commissioner review (IC review) of the internal review decision once it has been provided to you if you remain dissatisfied with the decision.

Information Commissioner review or complaint

You have the right to seek a review by the Information Commissioner of this decision.

An application for IC review must be made in writing to the Office of the Australian Information Commissioner (OAIC) within 60 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify the Department of Infrastructure, Transport, Regional Development, Communications and the Arts as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at www.oaic.gov.au/freedom-of-information/reviews-and-complaints/
- via email to foidr@oaic.gov.au
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available on the OAIC website here: www.oaic.gov.au/freedom-of-information/foi-review-process.

s22(1)(a)(ii) - irrelevant material

From: s22(1)(a)(ii) - irrelevant material
Sent: Thursday, 9 March 2023 5:38 PM
To: s22(1)(a)(ii) - irrelevant ma
Subject: Police officer - Logan Police [SEC=UNOFFICIAL]

UNOFFICIAL

Hi s22(1)(a)(ii) - irr

Just letting you know I have spoken with a Sgt from Logan police in QLD, he has had a complaint by s 11C re multiple "pornographic" titles available in the Logan Library. I referred s11C to the NCD to do a data check on the titles and also made s11C aware of the Office of Fair Trading (QLD Classification enforcement contact). I also informed s11C that anyone can apply to have a classification decision made. s11C was going to do some checks and liaise with the complainant.

Regards

s22(1)(a)(ii) - irre

s22(1)(a)(ii) - irrelevant material

Department of Infrastructure, Transport, Regional Development and Communications

s22(1)(a)(ii) - irrelevant material

Level 6, 23-33 Mary Street, Surry Hills NSW 2010 / Locked Bag 3, Haymarket NSW 1240
www.classification.gov.au



UNOFFICIAL

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TIMELINE – GENDER QUEER: A MEMOIR ISSUE

DATE	MATTER
<p>s22(1)(a)(i) - irrelevant material</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>9/3/23</p>	<p>Department were contacted by Queensland Police regarding the book Gender Queer: A Memoir. The Department advised Queensland Police that the book had not been classified, nor had an application for classification been received at that time.</p>
<p>s22(1)(a)(i) - irrelevant material</p>	<p>[REDACTED]</p>
<p>s22(1)(a)(i) - irrelevant material</p>	<p>[REDACTED]</p>
<p>s22(1)(a)(i) - irrelevant material</p>	<p>[REDACTED]</p>
<p>s22(1)(a)(i) - irrelevant material</p>	<p>s47F - personal privacy</p> <p>[REDACTED] Logan Police) rang, they spoke to s 11C [REDACTED] while s 11C [REDACTED] was staging a protest chambers on 15/3/23 and s 11C [REDACTED] had asked them to classify the book using their free enforcement quota. They were reluctant to get involved s22(1)(a)(i) [REDACTED] advised them to tell s 11C [REDACTED] had been emailed this morning advising s 11C [REDACTED] of the call-in, and that all classification enforcement powers in QLD were vested in Office of Fair Trading, not the Police.</p> <p>s22(1)(a)(ii) - irrelevant material</p> <p>[REDACTED]</p> <p>s22(1)(a)(ii) - irrelevant material</p>

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FOI 23-248

**Australian Government****Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts**

Ref: EC23-002889

s 11C

s47F - personal privacy

Dear s 11C

I am writing to you in relation to the correspondence you received from the department on 13 March 2023, regarding the publication *Gender Queer: A Memoir*.

Further to the information provided, I wish to inform you that under *the Classification (Publications, Films, and Computer Games) Act 1995* the Director may call in, (issue a notice to the publisher, to submit a publication for classification) where there are reasonable grounds to believe that a publication is a submittable publication. The Director has determined to call-in the publication *Gender Queer: A Memoir*.

Classification of a publication can take up to 25 working days. The Classification decision will be published on the National Classification Database (NCD) at www.classification.gov.au.

Thank you for bringing your concerns to our attention, I hope the information in this letter is of assistance.

Yours sincerely

Enquiries Officer
Classification Branch
15 March 2022

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Infrastructure, Transport, Regional Development, Communications and the Arts

s22(1)(a)(ii) - irrelevant material

From: Classification Branch Applications <applications@classification.gov.au>
Sent: Friday, 17 March 2023 2:53 PM
To: s47F - personal privacy
Subject: Call-in notice for Gender Queer: A Memoir [SEC=OFFICIAL]
Attachments: Gender Queer A Memoir - Director letter.pdf

OFFICIAL

Dear s47F - personal privacy,

Please find a call-in notice for the book *Gender Queer: A Memoir* attached to this email. This call-in notice has also been sent by registered post.

Best regards,

s22(1)(a)(ii) - irrelevant material

s22(1)(a)(ii) - irrelevant material

// Operations Section / Classification Branch

Department of Infrastructure, Transport, Regional Development and Communications

OFFICIAL

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Australian Government
Classification Board

s47F - personal privacy

English Books Division Manager
Books Kinokuniya
The Galleries Level 2
500 George St
SYDNEY NSW 2000

By email: s47F - personal privacy @kinokuniya.co.jp

Dear s47F - personal privacy,

Gender Queer: A Memoir, unclassified book

I am the Director of the Classification Board of Australia (the **Board**) and am responsible for the classification of films, computer games and certain publications which may include books. I am writing to you regarding the unclassified book, ***Gender Queer: A Memoir***, by Maia Kobabe, which was viewed at s^{11C} Sydney store on 14 March 2023, and for sale online at s^{11C} on 17 March 2023.

I am writing to advise you that ***Gender Queer: A Memoir*** has come to my attention and that I have reasonable grounds to believe that this book is a 'submittable publication' under the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*.

Under the Act a '**submittable publication**' means an unclassified publication that, having regard to section 9A or to the Code and the classification guidelines to the extent that they relate to publications, contains depictions or descriptions that:

- (a) are likely to cause the publication to be classified RC; or
- (b) are likely to cause offence to a reasonable adult to the extent that the publication should not be sold or displayed as an unrestricted publication; or
- (c) are unsuitable for a minor to see or read.

Section 46 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995 No 63 (NSW)* (the State Act) states:

- (1) If:
- (a) the Director has reasonable grounds to believe that a publication is a submittable publication, and
 - (b) the publication is being published in New South Wales, or the Director has reasonable grounds to believe that it will be published in New South Wales, and
 - (c) the publication is not subject to a conditional cultural exemption,

the Director may, by notice in writing given to the publisher of the publication, require the publisher to submit an application under the Commonwealth Act for classification of the publication (or of subsequent issues of the publication).

(2) A person to whom such a notice is given must comply with the notice within 3 business days after it is given.

Maximum penalty: 100 penalty units for an individual, 200 penalty units for a corporation.

Therefore, as Books ^{s 11C} [REDACTED] is making this book available for purchase in NSW, I am exercising the authority vested in me by the State Act to require you to submit an application for classification of ***Gender Queer: A Memoir*** within three business days.

This letter is a notice in writing for the purposes of subsection 46(1) of the State Act, and has been sent to you by both email and registered post.

It is an offence not to comply within three business days after receiving this notice. If you are not able to comply with this requirement you must contact this office to discuss an alternative timeframe.

A notice of my decision will be published in the Commonwealth Gazette.

Information about how to apply, including the application form and fees, is available [here](#).

The contact person for this matter is s22(1)(a)(ii) - irrelevant material Classification Services, Classification Branch, who can be contacted on s22(1)(a)(ii) - irrelevant material or enquiries@classification.gov.au .

Yours sincerely

s22(1)(a)(ii) - irrelevant material

Fiona Jolly
Director
17 March 2023

s22(1)(a)(ii) - irrelevant material

From: Classification Branch Applications
Sent: Wednesday, 22 March 2023 10:41 AM
To: Classification Branch Applications; enquiries
Cc: s22(1)(a)(ii) - irrelevant material
Subject: RE: Gender Queer classification [SEC=OFFICIAL]

OFFICIAL

Hi ^{s47F - personal priv}

All good.

We have located the Book and It is with us now..
It was left with Reception on the Ground Level of the Teachers Federation Building.

Kind Regards

s22(1)(a)(ii) - irrelevant material

Classification Services • Online Safety, Media and Platforms Division

applications@classification.gov.au

s22(1)(a)(ii) - irrelevant material

Level 6, 23-33 Mary Street, Surry Hills
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

infrastructure.gov.au



*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.
I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

From: Classification Branch Applications
Sent: Wednesday, 22 March 2023 8:47 AM
To: enquiries ; Classification Branch Applications
Cc: s22(1)(a)(ii) - irrelevant material
Subject: RE: Gender Queer classification [SEC=OFFICIAL]

OFFICIAL

Hi ^{s47F - personal privacy}

Released under the Freedom of Information Act 1982 b t Department of Infrastructure, Transport, Regional Development, Communications and the Arts

FOI 23-248

Good Morning.

Just wanted to let you know we are yet to receive the paperback copy of the book - **Gender Queer: A Memoir**.

Can you please confirm which address it was sent to? Was it the Mary Street, Surry Hills address or the Locked Bag address as we no longer use the Locked Bag address.

Kind Regards

s22(1)(a)(i) - irrelevant material

Leader • Classification Services • Online Safety, Media and Platforms Division

applications@classification.gov.au

s22(1)(a)(ii) - irrelevant material

Level 6, 23-33 Mary Street, Surry Hills

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

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I recognise and respect their continuing connection to the land, waters and communities.
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

OFFICIAL

From: enquiries <enquiries@classification.gov.au>
Sent: Monday, 20 March 2023 8:20 AM
To: Classification Branch Applications <applications@classification.gov.au>
Cc: s22(1)(a)(ii) - irrelevant material
Subject: FW: Gender Queer classification [SEC=OFFICIAL]

OFFICIAL

From: s47F - personal privacy
Sent: Friday, 17 March 2023 4:20 PM
To: enquiries <enquiries@classification.gov.au>
Subject: Gender Queer classification

Dear s22(1)(a)(ii) - irrelevant ma

s 11C today received notice of the Classification Board calling in a graphic novel memoir Gender Queer for classification.

I just wanted to confirm that we have completed the application for classification and a paperback copy of the book will be express posted on Monday.

We hope the board will take into account that this title is the winner of the ALA/YALSA Alex Award and an Honour Book in the Stonewall awards.

Kind regards,

s47F - personal privacy

s 11C

Email: s47F - personal privacy

s47F - personal privacy

OFFICIAL

s22(1)(a)(ii) - irrelevant material

From: Legislation_Register <noreply@legislation.gov.au>
Sent: Friday, 24 March 2023 11:13 AM
To: s22(1)(a)(ii) - irrelevant material
Subject: Gazette Registration advice - Notification under section 23(2) of the Classification (Publications, Films and Computer Games) Act 1995 – Call in notice for Gender Queer: A Memoir [SEC=OFFICIAL]

Dear s22(1)(a)(ii) - irrelevant material

The following Gazette notice has been registered on the Federal Register of Legislation on 24/03/2023:

C2023G00359, Notification under section 23(2) of the Classification (Publications, Films and Computer Games) Act 1995 – Call in notice for Gender Queer: A Memoir, original R20230322Q006.

Regards,

Federal Register of Legislation

This is an automatically generated message. If you would like to respond to this message please select Reply and the email will be redirected to a staff member for action.

For assistance with this message or any Legislation Register matter, please contact:

Office of Parliamentary Counsel
28 Sydney Avenue Forrest 2603
E-mail: lodge@legislation.gov.au
Phone: (02) 6120 1350
Fax: (02) 6120 1403

s22(1)(a)(ii) - irrelevant material

From: s22(1)(a)(ii) - irrelevant material
Sent: Wednesday, 22 March 2023 9:42 AM
To: s22(1)(a)(ii) - irrelevant material
Subject: FW: Gender Queer classification [SEC=OFFICIAL]

OFFICIAL

FYI

OFFICIAL

From: Classification Branch Applications
Sent: Wednesday, 22 March 2023 9:42 AM
To: s47F - personal privacy
Subject: RE: Gender Queer classification [SEC=OFFICIAL]

OFFICIAL

s47F - personal privacy
Dear

Thank you for getting onto this so quickly, and for your time on the phone on Monday.

Just one thing – we haven't received the book yet. Could you please check what is happening with the delivery tracking?

Thanks again,

s22(1)(a)(ii) - irrelevant material

s22(1)(a)(ii) - irrelevant material

s22(1)(a)(ii) - irrelevant material • Operations Section • Classification Branch
s22(1)(a)(ii) - irrelevant material @classification.gov.au

From: s47F - personal privacy
Sent: Friday, 17 March 2023 4:20 PM
To: enquiries <enquiries@classification.gov.au>
Subject: Gender Queer classification

s22(1)(a)(ii) - irrelevant material
Dear

s 11C today received notice of the Classification Board calling in a graphic novel memoir Gender Queer for classification.

Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

I just wanted to confirm that we have completed the application for classification and a paperback copy of the book will be express posted on Monday.

We hope the board will take into account that this title is the winner of the ALA/YALSA Alex Award and an Honour Book in the Stonewall awards.

Kind regards,

s47F - personal privacy

s47F - personal privacy

s 11C

Email: s47F - personal privacy

Direct: s47F - personal privacy

OFFICIAL

OFFICIAL

s22(1)(a)(ii) - irrelevant material

From: Legislation_Register <noreply@legislation.gov.au>
Sent: Wednesday, 22 March 2023 9:51 AM
To: s22(1)(a)(ii) - irrelevant material
Subject: Gazette lodgment R20230322Q006 has been received [SEC=OFFICIAL]

Please note: The lodgement service is not monitored after standard business hours. If you require urgent registration please call (02) 6120 1350 for after-hours access numbers.

Dea

Thank you for your lodgement of Notification under section 23(2) of the Classification (Publications, Films and Computer Games) Act 1995 – Call in notice for Gender Queer: A Memoir, R20230322Q006 for registration on the Federal Register of Legislation. Assessment of your Gazette notice will begin shortly.

You may access the lodgement at

<https://lodge.legislation.gov.au/Forms/Legislation/GazetteLodgment.aspx?Mode=View&LegislationId=ef8be166-b84f-4feb-84ba-24ea210cdb53>.

You will be advised by email when registration has occurred.

If you have any questions about this lodgement, please contact the registration help desk on (02) 6120 1350 or email lodge@legislation.gov.au.

Regards,

Federal Register of Legislation

This is an automatically generated message. If you would like to respond to this message please select Reply and the email will be redirected to a staff member for action.

For assistance with this message or any Legislation Register matter, please contact:

Office of Parliamentary Counsel
28 Sydney Avenue Forrest 2603
E-mail: lodge@legislation.gov.au
Phone: (02) 6120 1350
Fax: (02) 6120 1403



FOI Disclosure Log Decision Maker Recommendation as to Publication

The decision to grant access to the FOI applicant to a document and the decision about whether to publish information on the department's disclosure log are separate decisions. Your signed recommendation will inform whether to publish information released to an applicant on the disclosure log.

The department's disclosure log can be found here: www.infrastructure.gov.au/about-us/freedom-information/freedom-information-disclosure-log

Section 11C of the *Freedom of Information Act 1982* provides that the department must publish documents that are released in response to an FOI request on the department's disclosure log, except where that information is:

- personal information about any person, if it would be unreasonable to publish the information
- information about the business, commercial, financial affairs of any person, if it would be unreasonable to publish the information
- any information it is not reasonably practicable to publish because of the extent of any modifications necessary to delete information of any of these kinds.

Additionally, pursuant to the [FOI Disclosure Log Determination 2018](#), the following information is also exempt from publication:

- information in a document that was an exempt document at the time that access was given by the department to the applicant
- information in a document that the department would have decided was an exempt document at the time that access was given to the applicant if the request for that document had been received from a person other than the applicant.

FOI Case Number	
1	Does the information released to the FOI applicant contain any of the following information, which would be unreasonable to publish on the disclosure log:
a)	<p>personal information about any individual? Yes No</p> <p>If Yes, clearly identify the information that should be deleted before publication:</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>
b)	<p>business, commercial or financial affairs information of any person or organisation? Yes No</p> <p>If Yes, clearly identify the information that should be deleted before publication:</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
c)	<p>information that would otherwise be exempt if the FOI request were made by someone other than applicant? Yes No</p> <p>For example, a secrecy provision may allow release of information to FOI applicant but prohibit release to someone else.</p> <p>If Yes, clearly identify the information that should be deleted before publication.</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
2	<p>If, either a), b) or c) above are 'yes' is it practical to delete that information from the documents? Yes No</p> <p>N/A <input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>If No, clearly identify the documents/information to be excluded from publication.</p>
Details of publication:	
Title	FOI XXX – Documents for release
Summary:	A short and meaningful summary of the content
Publication date:	Within 10 working days from release to the FOI applicant.

Signed by FOI decision maker: _____ Date: 8/6/23

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