

Minute

Classification: OFFICIAL:SENSITIVE

File reference: LEX2861

To: Andrew Johnson, Chief Legal Officer

Through: s22 Principal Government Lawyer

CC: s22 Government Lawyer

Subject: For action – Approval for payment of costs in the matter of AEC v Kelly

Purpose

To seek your approval under section 23(3) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) to pay the costs settlement amount of \$250,000 in the AEC v Kelly matter. If approved, this will finalise the ongoing costs aspect of this matter and this minute will be a record of your approval for the purpose of section 18 of the *Public Governance, Performance and Accountability Rule 2014*.

Proposal

- On 27 July 2023, the Federal Court dismissed the AEC's application against Mr Kelly (the Respondent) and ordered the AEC to pay the Respondent's costs.

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- On 23 February 2024, the Respondent has accepted the AEC's costs settlement offer of \$250,000.
- If you approve the payment of this costs settlement amount, the AEC will pay the accepted amount to finalise the Federal Court's costs order. This minute will be provided, along with the appropriate trust account details, to Finance & Corporate Performance Branch (FCPB) to facilitate payment of the costs amount.

Financial Delegation

- On 15 July 2019, the Electoral Commissioner authorised you as Chief Legal Officer to approve a commitment of relevant money in a current financial year in relation to legal expenditure of up to \$1,000,000.

Consultation

9. **s 42** Internally, FCPB was consulted in relation to the financial delegation and payment process.

Recommendation

10. It is recommended that you **approve** the expenditure of \$250,000 under section 23(3) of the PGPA Act to settle the Federal Court costs order against the AEC in the AEC v Kelly matter.

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Principal Government Lawyer
23/02/2024

☒ Approved ☐ Not approved

Andrew Johnson
Chief Legal Officer

s22

Signature

Date 23 / 02 / 2024

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