AustraliaOS Pty Ltd

The Jurisdiction Gap

What the hosting certification exemption removes, five documents the Committee can obtain and this practice cannot, and an offer to appear. A fourth supplement to submission AOS-AIDC-2026-001 to the Senate inquiry into artificial intelligence and data centres.

REFERENCE	DATE	CLASSIFICATION	SUPPLEMENTS
AOS-AIDC-2026-001-SUPP-04	August 2026	Public	AOS-AIDC-2026-001-v1.1

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Summary

This supplement has three parts.

First, what the hosting certification exemption removes. Section 30AB(4) of the Security of Critical Infrastructure Act 2018 takes an asset outside Part 2A where the responsible entity holds a strategic-level certificate and the asset is used in connection with the certified services. **The exemption itself is not restated here.** It is already before the Committee, in the body of the second and third supplements. What has not been put is what the removal takes with it: two specified material risks, one of which is the offshore storage of sensitive operational information, and the mechanism by which they cease to bite.

Second, five documents the Committee can obtain and this practice cannot. A Senate committee may send for persons, papers and records. This practice has made two Freedom of Information requests and can go no further. The section sets out what each document is, the question it would settle, what was asked, when, and what came back. Both outstanding decisions fall after submissions close and before the Committee reports.

Third, an offer to appear. No hearings are listed. The author would answer questions on the operation of section 30AB(4) and Part 2AA and on the documents in the schedule, and states plainly what he could not give evidence about.

01 Purpose of this supplement

This supplement is made by AustraliaOS Pty Ltd (ABN 69 697 049 291) and is authored by its director, Brunel Al-Bijwaie. It should be read with submission AOS-AIDC-2026-001 and the three earlier supplements.

What is referenced and not restated. The second supplement's section 06 establishes that section 30AB(4) exempts a certified asset from the risk-management regime, that section 30AQ substitutes a board-approved annual report, and that the obligations standing in place of the program are set out in a Deed of Certification that is not public.[1] The third supplement's section 06 establishes the enabling chain — that subrule 4A(1) of the CIRMP Rules is made for paragraph 30AH(2)(b) and rule 10A for paragraph 30AH(1)(c), that both sit inside Part 2A, and that a rule made under section 30AH does not reach an asset section 30AB(4) has taken outside that Part.[2] **Neither is repeated below.**

What is new. Sections 02 to 04 of this supplement.

[1] AOS-AIDC-2026-001-SUPP-02, section 06. See Appendix A, item 1.
[2] AOS-AIDC-2026-001-SUPP-03 v1.1, section 06. See Appendix A, item 2.

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02 What the exemption removes

Section 30AB(4) provides that where the four conditions are met, "this Part does not apply to the asset".[3] **"This Part" is Part 2A.** What follows is what that removes, and each consequence is stated with the provision that produces it.

The mechanism. Section 30AH(8) of the Act provides:

> The rules may provide that a specified risk is taken to be a material risk for the purposes of this section.[4]

Section 30AH sits inside Part 2A.[5] Section 6 of the CIRMP Rules is made under that power — it opens "For subsection 30AH(8) of the Act, material risk includes:" — and it is the provision that turns a listed risk into one a responsible entity must identify and, so far as reasonably practicable, minimise or eliminate.[6]

So where Part 2A does not apply, section 30AH does not apply, and the deeming in section 6 has no operation for that asset. The listed risks are not reduced or narrowed. They are simply not material risks that anyone is required to address.

Two of them bear directly on this inquiry. Section 6 provides:

> (d) the storage, transmission or processing of sensitive operational information outside Australia, which includes: (i) layout diagrams;
>
> (ii) schematics; (iii) geospatial information; (iv) configuration information; (v) operational constraints or tolerances information;
>
> (iii) data that a reasonable person would consider to be confidential or sensitive about the asset;[7]
>
> (f) impact to the availability, integrity, reliability or confidentiality of the data storage system holding business critical data.[8]

Paragraph (d) is the offshore-information risk. Paragraph (f) is the risk to the data storage system itself. For an asset covered by section 30AB(4), neither is a material risk under the Act, because the provision that would make them material does not reach the asset.

This supplement does not say that a certified provider ignores these risks. What the Deed of Certification requires is not public, and section 04 records that. The observation

[3] Security of Critical Infrastructure Act 2018, subsection 30AB(4). See Appendix A, item 3.
[4] Security of Critical Infrastructure Act 2018, subsection 30AH(8). See Appendix A, item 3.
[5] AOS-AIDC-2026-001-SUPP-03 v1.1, section 06. See Appendix A, item 2.
[6] CIRMP Rules, Compilation No. 2, section 6 and paragraph 6(d), printed page 7. See Appendix A, item 4.
[7] CIRMP Rules, Compilation No. 2, section 6 and paragraph 6(d), printed page 7. See Appendix A, item 4.
[8] CIRMP Rules, Compilation No. 2, paragraph 6(f), printed page 7. See Appendix A, item 4.

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is confined to the statute: **the obligation that would compel the assessment is removed, and what stands in its place is not on the public record.**

03 What the record does not show

A guard on everything in this section that rests on the released draft. The Hosting Certification Framework draft of July 2025 was released in part under Freedom of Information reference FA 25/07/02160. **Twelve blocks across eight pages are withheld under sections 33(a)(i) and 47C(1) of the Freedom of Information Act 1982, including the whole of Appendix B and every control statement.** Every observation below about what that document does not contain is an observation about **the released text**, not about the document. **Nothing here asserts what the withheld blocks contain.**

A second guard, on naming. The Act does not name the scheme. Its phrase is "the scheme that is … known as the hosting certification framework". Where this supplement uses the scheme's name it does so as the scheme's own, not as a statutory term.

What the released draft says about the relationship. Its Appendix C states that data centre providers' and cloud service providers' existing obligations under the Security of Critical Infrastructure Act "operate in parallel with HCF requirements".[9] **Read in full and carrying no redaction, that appendix contains no reference to section 30AB, to Part 2A, to any exemption, or to a critical infrastructure risk management program**[10] — a nil for the released text, under the bound above.

A guard on what follows, because the dates run the wrong way. The framework's operative document of March 2021 predates the provision. It addressed the Security Legislation Amendment (Critical Infrastructure) Bill 2020, which became Act No 124 of 2021; section 30AB was inserted by Act No 33 of 2022. **The statement below is a description of posture at the time, not a statement about section 30AB.**

That document states the framework "will also work in conjunction with the powers and provisions of the Government's 2020 Cyber Security Strategy, including those regarding protecting Critical Infrastructure and Systems of National Significance (CI/SoNS), and once legislated, those provisions stipulated in the Security Legislation Amendment (Critical Infrastructure) Bill 2020".[11]

What the explanatory memorandum said, and what it did not. The memorandum to the

[9] Hosting Certification Framework draft of July 2025, Appendix C, printed page 29. See Appendix A, item 7.

[10] Hosting Certification Framework draft of July 2025, Appendix C, printed pages 28 to 29, released text. See Appendix A, item 7.

[11] Hosting Certification Framework, March 2021 (version 2), under the heading "Protecting Critical Infrastructure and Systems of National Significance". See Appendix A, item 8.

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Bill that inserted section 30AB(4) records the rationale:

> Subsection (4) was not included in the 2020 Bill. Consistent with recommendation 7 and paragraph 3.49 of the PJCIS report, this exemption is inserted to minimise the regulatory overlap between the critical infrastructure risk management program obligation and the HCF in response to feedback received from the data storage and processing sector.[12]

And it records a limit on the exemption's reach:

> While the exemption under subsection (4) is intended to minimise the regulatory overlap between the critical infrastructure risk management program obligation and the HCF, it will not apply to all facilities held by a responsible entity. Responsible entities for assets in the data storage and processing sector will still be required to comply with any rules made under Part 2A for facilities that do not hold a certificate of hosting certification (strategic level) under the HCF.[13]

That limit is stated here because it cuts against this practice's own argument. The exemption is facility-specific, not entity-wide. A provider outside it for one facility remains inside Part 2A for another.

The risk was put to a parliamentary committee in 2022, by a certified provider, and it was put with a concession. Submission 5 to the PJCIS review of the Bill states, at paragraph 5.2:

> It is reasonable to exempt such service providers from Part 2A given the HCF involves a similar risk management process. However, this should not be done through primary legislation until the HCF is itself formalised in legislation or regulation or at least incorporated into the Protective Security Policy Framework.[14]

and at paragraph 5.3:

> The Committee should note that the HCF exemption would have some drawbacks. In particular, a service provider certified under the HCF would not be required to address any of the 'material risks' that the Minister may specify for the purposes of new subsection 30AH(8). … Although many of the specified material risks are reflected in the HCF, there are some that are not, such as risks associated with 'the storage, transmission or processing of sensitive

[12] Explanatory Memorandum, paragraph 142, printed page 32. See Appendix A, item 5.
[13] Explanatory Memorandum, paragraph 143, printed pages 32 to 33. See Appendix A, item 5.
[14] Submission 5, paragraph 5.2, printed page 6. See Appendix A, item 6.

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operational information outside Australia'.[15]

Both paragraphs are quoted because they belong together. The submitter accepted the exemption as reasonable and identified the same paragraph — section 6(d) — that section 02 above reaches from the statute. **The qualification that many specified risks are reflected in the framework is the submitter's own and is not elided.**

04 Documents the Committee can obtain

The redaction bound above applies again to item 2. What the twelve withheld blocks contain is not asserted.

Each entry states the provision that creates or refers to the document, the question it would settle, whether it is public, and what has been sought.

1. The Deed of Certification. The instrument carrying the operative obligations of certification under the Hosting Certification Framework. *It would settle:* what ownership, control and supplier obligations a strategic-level certificate imposes, and whether any of them reaches the question that rule 10A(5)(a) of the CIRMP Rules asks of nine other asset classes. *Public:* no. The scheme's Framework, Resources and Service Providers pages carry no copy. *Sought:* no Freedom of Information request has been made for it.

2. The twelve blocks withheld from the July 2025 draft framework. Released in part under FA 25/07/02160, disclosure date 17 September 2025. *It would settle:* what the reformed framework requires of a certified provider. *Public:* the document is; the blocks are not. *Sought:* Freedom of Information request, sent 12 August 2026, item 1, identifying each block by printed page and heading: page 7, the body under *Structure*; page 14, the first of three core compliance mechanisms; page 15, *Continuous monitoring*; page 15, *Change in Circumstances*; page 17, the block closing *Enforcement process*; page 24, *Appendix B — Control Requirements*, the entire page; page 25, *FOCI*; page 25, *Supply Chain (SUP)*; page 26, *Personnel Security (PER)*; page 26, *Physical Security (PHY)*; page 27, *Information Technology (IT)*; page 27, *Governance (GOV)*. *Result:* on 13 August 2026 the Department recorded that item 1 has not been registered for consideration. On the same day this practice asked that item 1 be registered and decided, or that the provision relied on be advised, and offered item 1 as a separate request. As at 14 August 2026 no response is recorded. The periods in section 15(5) of the Freedom of Information Act 1982 run from the receipt of a request; the Act fixes no period for a response to correspondence about a request already made.[16]

[15] Submission 5, paragraph 5.3, printed page 7. See Appendix A, item 6.

[16] Freedom of Information Act 1982, Compilation No. 121 (C2026C00020), section 15. See Appendix A, item 10.

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3. Any annual report made under section 30AQ in respect of an asset covered by section 30AB(4). Section 30AQ(2) requires a board-approved report setting out the reason the asset is covered. *It would settle:* how many entities have claimed the exemption, and what they reported. *Public:* no. *Sought:* Freedom of Information request, sent 12 August 2026, for documents recording the number of such reports for the financial years 1 July 2022 to 30 June 2026. *Result:* as at 14 August 2026 the request is not acknowledged and no reference number is recorded. The period for acknowledgement under section 15(5)(a) of the Freedom of Information Act 1982 ends 26 August 2026.

4. The National Intelligence Community assessments. The explanatory statement to the enhanced CIRMP Rules attributes the selection of nine asset classes to assessments by the National Intelligence Community, and the Statement of Compatibility to what Australia's intelligence agencies have identified. *It would settle:* on what basis the nine were selected, and whether the class holding government data was considered. *Public:* no. *Sought:* no request has been made and none is proposed.

5. The current draft of the reformed framework. Registrations under the framework have been paused since 3 November 2025. *It would settle:* what will replace the strategic tier, and whether certification will continue to substitute for Part 2A. *Public:* no. *Sought:* Freedom of Information request, sent 12 August 2026, item 2. *Result:* acknowledged 13 August 2026, reference FA 26/08/01022. An extension of 30 days under section 15AA was sought on 13 August 2026 and agreed the same day. The decision is due 12 October 2026.

The dates, and where they fall.

- **26 August 2026** — acknowledgement of the section 30AQ request falls due.
- **1 September 2026** — submissions to this inquiry close.
- **11 September 2026** — decision on the section 30AQ request falls due.
- **12 October 2026** — decision on FA 26/08/01022 falls due, as extended.
- **16 November 2026** — the Committee reports.

Both outstanding decisions fall after submissions close and before the reporting date. This practice cannot place these documents before the Committee in a submission. The Committee could obtain them in time to use them.

05 Recommendations

No new policy recommendation is made. Two of the recommendations lodged in the second supplement are reinforced by what is above, and are not restated.

Recommendation D2 asks that the approved annual report form require a responsible

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entity to state whether the jurisdictional exposure of its major suppliers was considered, for both Part 2A and Part 2AA reporting. Section 04 above adds a fact D2 did not have: **the Part 2AA reports are not obtainable by this practice**, and the request for even their number is unacknowledged.

Recommendation D3 asks that the ownership, control and supplier obligations carried in the Deed of Certification be published in concluding the framework's reform. Item 1 of the schedule shows this practice has exhausted the routes available to it.

One request, and it is for papers rather than for a change. The Committee may wish to obtain the five documents in section 04. Each bears on the effectiveness of existing regulatory frameworks, which is the first limb of the terms of reference, and each is beyond the reach of a submitter.

One matter recorded as owed. The third supplement stated a limit on Recommendation D1: an asset covered by section 30AB(4) sits outside Part 2A, so extending subrule 4A(1) would not reach it where the exemption applies. A replacement that does reach such an asset would require either an amendment to section 30AB(4) — which D1 was narrowed to avoid — or a route through Part 2AA. **That is a question of design and this supplement does not attempt it.**

06 What this supplement does not claim

Stated on its face:

1. That any document is being withheld improperly, or that any Freedom of Information decision was wrong. **This practice has sought review of nothing.**
2. That the Department's decision not to register item 1 was incorrect. What is recorded is what the Department stated.
3. That the National Intelligence Community assessments are wrong, absent, or improperly relied on. **They are not public and nothing is asserted about them.**
4. That the contents of the Deed of Certification are known, or that they fail to address foreign legal compulsion. Not public means not known.
5. That any entity has claimed the section 30AB(4) exemption, or what any entity has reported.
6. That certification is inadequate, or that the exemption is unlawful. The exemption is deliberate: Parliament chose to let strategic-tier certification substitute for the risk-management program.
7. That the reformed framework will, or will not, retain that substitution.
8. That Parliament was misled.
9. That the blocks withheld from the July 2025 draft contain anything in particular.

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07 Appearing

No public hearings are listed for this inquiry. If the Committee holds hearings, **the author is willing to appear as a witness.**

The subject on which he would answer questions: the operation of section 30AB(4) and Part 2AA of the Security of Critical Infrastructure Act 2018; the relationship between the risk-management program rules and the Hosting Certification Framework; and the documents in section 04, what was sought and what came back.

What he could not give evidence about, stated so the offer is not mistaken for more than it is: what any entity has actually reported under Part 2A or Part 2AA, which is not public; the contents of the Deed of Certification; the contents of the blocks withheld from the July 2025 draft; and the content of the intelligence assessments referred to in section 04. **On each of those the honest answer is that it is outside what this practice has established.**

The author is available to assist the Committee in its consideration of these matters.

Appendix A. Sources

1. AOS-AIDC-2026-001-SUPP-02, as lodged in this inquiry, section 06; Recommendations D2 and D3.
2. AOS-AIDC-2026-001-SUPP-03 v1.1, as lodged in this inquiry, section 06. SHA-256 bf7c67ca43672896b9bed524698e91bd8f15c6a71c6c63a3450a91efcb10cf11. https://australiaos.com.au/verify/AOS-AIDC-2026-001
3. Security of Critical Infrastructure Act 2018, Compilation No. 9 (C2026C00213), compilation date 4 June 2026, sections 30AB(4), 30AH and 30AQ. https://www.legislation.gov.au/C2018A00029/2026-06-04/2026-06-04/text/original/pdf
4. Security of Critical Infrastructure (Critical infrastructure risk management program) Rules (LIN 23/006) 2023, Compilation No. 2 (F2026C00562), compilation date 10 June 2026, sections 6 and 10A. https://www.legislation.gov.au/F2023L00112/2026-06-10/2026-06-10/text/original/pdf
5. Explanatory Memorandum, Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022, paragraphs 142 and 143. https://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6833_ems_e948a334-98d0-4960-860d-f1d9622b2d53/upload_pdf/JC004947.pdf
6. Submission 5 to the Parliamentary Joint Committee on Intelligence and Security review of the Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022, paragraphs 5.2 and 5.3.
7. Hosting Certification Framework, draft of July 2025, released in part under FA 25/07/02160,

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Appendix C.

8. Whole of Government Hosting Strategy — Hosting Certification Framework, March 2021 (version 2). https://www.hostingcertification.gov.au/sites/default/files/2021-11/Hosting%20Certification%20Framework%20-%20March%202021.v2.pdf
9. Freedom of Information Act 1982, Compilation No. 121 (C2026C00020), compilation date 1 January 2026, section 15.
10. Explanatory Statement to the Security of Critical Infrastructure Legislation Amendment (Enhanced Critical Infrastructure Risk Management Program) Rules 2026 (LIN 26/075, F2026L00701), Attachments B and C. https://www.legislation.gov.au/F2026L00701/2026-06-09/2026-06-09~~/es~~/original/pdf

End of supplement.

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