



**SENATOR THE HON MURRAY WATT
MINISTER FOR AGRICULTURE, FISHERIES AND FORESTRY
MINISTER FOR EMERGENCY MANAGEMENT**

Ref: LEX-29237

ST
Right to Know

Via email: foi+request-10069-ca8dbaae@righttoknow.org.au

Dear ST

Decision on your Freedom of Information request

I refer to your request made by email on 16 March 2023 for access under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) to the following documents:

'I request a copy of any communication between staff in the office of the Minister for Agriculture and the Australian Alliance for Animals or any other animal activist group from 27 February 2023 - Sunday 5 March 2023.

This includes any material relating to announcement of the panel on live sheep export phase out, announced on 3 March 2023.

For the avoidance of doubt, I am seeking all written communication regardless of whether by email, letter, SMS, Signal, Whatsapp or other format.'

Your request was made to the Department of Agriculture, Fisheries and Forestry (**the department**). However, from the nature of your request it appeared that you sought documents from the Minister for Agriculture, Fisheries and Forestry (**the Office**), rather than the department. On 16 March 2023 we asked you to confirm whether your request was made to the Office, noting that if you did not respond we would proceed to process the request on this basis. On 20 March 2023, having not received a response from you, we proceeded to process the request on the basis that it was made to the Office.

My decision

The Office holds 15 documents (totalling 25 pages) that relate to your request.

I have decided to:

- grant you **full access** to 1 document (document 13);
- grant you **part access** to 7 documents (documents 1, 2, 3, 5, 8, 11, and 15) with some of the content removed; and
- **refuse access** to 7 documents (documents 4, 6, 7, 9, 10, 12, and 14).

I have decided that certain documents, or parts of documents, that you have requested are exempt under the FOI Act as the information is:

- business information, the disclosure of which would, or could reasonably be expected to, unreasonably affect a person adversely and be contrary to the public interest (section 47G conditional exemption).
- personal information about other people, disclosure of which would be unreasonable disclosure of personal information and be contrary to the public interest (section 47F(1) conditional exemption).
- information which would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency (section 47E conditional exemption).

On 23 March 2023 the Office acknowledged your request and advised you that we would not include personal details about our staff. You did not contact the Office again about this. Staff details have therefore been deleted in accordance with section 22(1) of the FOI Act.

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision.

How we will send your documents to you

The documents are attached.

You can ask for a review of my decision

If you wish to seek an internal review, you must apply to the Office within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to foi@agriculture.gov.au.

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the Office handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website www.oaic.gov.au or phone the OAIC on 1300 363 992.

Further assistance

If you have any questions, please email foi@agriculture.gov.au.

Yours sincerely



Jessica Mitchell
A/g Chief of Staff

12 May 2023



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MINISTER FOR AGRICULTURE, FISHERIES AND FORESTRY
MINISTER FOR EMERGENCY MANAGEMENT

Attachment A

LIST OF DOCUMENTS FOR RELEASE

LEX-29237

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1	1-2	February 2023	Correspondence	Release in part	s 47F(1)	Page 1: personal information exempt under s 47F(1). Page 1: staff details deleted under s 22(1)(a)(ii) (out of scope).
2	3-4	February 2023	Letter	Release in part	s 47F(1)	Page 4: personal information exempt under s 47F(1).
3	5-8	March 2023	Correspondence	Release in part	s 47E(d) s 47F(1)	Page 6: information in relation to certain operations of agencies exempt under section 47E(d). Page 5-8: personal information exempt under s 47F(1). Pages 5-7: staff details deleted under s 22(1)(a)(ii) (out of scope).
5	9-10	February 2023	Correspondence	Release in part	s 47F(1)	Page 14: personal information exempt under s 47F(1). Page 14: staff details deleted under s 22(1)(a)(ii) (out of scope).

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
8	11	2/3/2023	Correspondence	Release in part	s 47F(1)	Page 18: personal information exempt under s 47F(1). Page 18: staff details deleted under s 22(1)(a)(ii) (out of scope).
11	12	3/3/2023	Correspondence	Release in part	s 47F(1)	Page 21: personal information exempt under s 47F(1). Page 21: staff details deleted under s 22(1)(a)(ii) (out of scope).
13	13	March2023	Correspondence	Release in full	N/A	N/A
15	14	March 2023	Correspondence	Release in part	s 47E(d) s 47F(1)	Page 25: information in relation to certain operations of agencies exempt under section 47E(d). Page 25: personal information exempt under s 47F(1). Page 25: staff details deleted under s 22(1)(a)(ii) (out of scope).

*Documents 4, 6, 7, 9, 10, 12, and 14 are exempt in full under s 47G(1) (business information conditional exemption) and have been removed from the document set.

REASONS FOR DECISION

What you requested

'I request a copy of any communication between staff in the office of the Minister for Agriculture and the Australian Alliance for Animals or any other animal activist group from 27 February 2023 - Sunday 5 March 2023.

This includes any material relating to announcement of the panel on live sheep export phase out, announced on 3 March 2023.

For the avoidance of doubt, I am seeking all written communication regardless of whether by email, letter, SMS, Signal, Whatsapp or other format.'

What I took into account

In reaching my decision, I took into account:

- your original request dated 16 March 2023;
- correspondence with you on 16 and 20 March 2023 clarifying the request will be processed as a request to the Office rather than the department;
- the documents that fall within the scope of your request;
- consultation with third parties about documents which contain information concerning them;
- information about:
 - the nature of the documents; and
 - the Office's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**); and
- the FOI Act.

Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

I have decided that certain documents and parts of documents that you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that an exemption applies to those documents are discussed below.

Section 47F of the FOI Act - unreasonable disclosure of personal information

I have applied the conditional exemption in section 47F(1) to documents 1, 2, 3, 5, 8, 11, and 15.

Section 47F of the FOI Act relevantly provides:

'(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister 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.'

Personal Information

The term 'personal information' is defined as follows:

'...information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.'

Paragraph 6.130 of the Guidelines provides:

'Personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.'

I find that documents 1, 2, 3, 5, 8, 11, and 15 contain personal information of other people. This includes their name and contact details.

Whether disclosure is 'unreasonable'

In addition to the factors specified in section 47F(2) of the FOI Act, paragraph 6.138 of the Guidelines provides:

'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.'

I am satisfied that the disclosure of the third party personal information would be unreasonable for the following reasons:

- the identity of the individual concerned is readily apparent or could be easily ascertained;
- the information is not publicly known;
- the individuals concerned have opposed the release of the information on the grounds that it is of such a nature that disclosure may cause harm, as the individuals concerned are not known to be (or to have been) associated with the matters raised in the documents. I am satisfied that the individual's contentions are reasonable in the circumstances.

On this basis, I have decided that the personal information included in documents referred to in the Schedule are conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act provides:

'The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.'

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would:

- promote the objects of the FOI Act; and
- inform debate on a matter of public importance;

I have also considered the relevant factors weighing against disclosure, indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- prejudice an individual's right to privacy; and
- adversely affect or harm the interests of an individual or group of individuals, specifically the individuals concerned are not known to be (or to have been) associated with the matters raised in the documents.

Based on the above factors, I have decided that in this instance, the disclosure of the documents would, on balance, be contrary to the public interest.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

Section 47G of the FOI Act – Business information

I have applied the conditional exemption in section 47G(1) to documents 4, 6, 7, 9, 10, 12, and 14.

Section 47G of the FOI Act provides:

'(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(b) could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of

the Commonwealth or of a Territory or the administration of matters administered by an agency.'

The documents are correspondence between animal activist groups and the Office and contain information about their lawful business affairs. On this basis, I am satisfied that the document contains information concerning a person's business, commercial or financial affairs. Following consultations with the relevant organisations, I am further satisfied that the disclosure of the material would, or could reasonably be expected to unreasonably affect the organisation adversely in respect of their business affairs, being the ability to have confidential communications with the government for effective consultation and the effective provision of information. As such, I am satisfied that the relevant documents are conditionally exempt under section 47G(1) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act provides:

'The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.'

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would:

- promote the objects of the FOI Act; and
- inform debate on a matter of public importance, being animal welfare.

I have also considered the relevant factors weighing against disclosure, indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- adversely effect the ability of the relevant animal activist groups to carry out their lawful business, including confidentiality communicating with the government to ensure effective consultation and the provision of information; and
- adversely effect the future supply of information from interest groups to government.

Based on the above factors, I have decided that in this instance, the disclosure of the documents would, on balance, be contrary to the public interest.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

Section 47E(d) of the FOI Act – certain operations of agencies

I have applied the conditional exemption in section 47E(d) to documents 3 and 15.

Section 47E(d) of the FOI Act relevantly provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

...

(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The documents are invitations from the Office to attend a videoconference. The documents contain the relevant videoconference link, password, phone number and other video conferencing service details. I am satisfied that the material in the documents relates to the Office's function of sharing information with and obtaining information from relevant industry participants.

I consider that the disclosure of this information would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of this function, being the ability to confidentiality liaise with relevant industry participants and control attendance at these meetings.

On this basis, I have decided that the information included in documents referred to in the Schedule is conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act provides:

'The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.'

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act. Weighing against disclosure, and indicating that access would be contrary to the public interest, I have considered the extent to which disclosure could reasonably be expected to prejudice the Office's ability to communicate confidentiality with industry participants using a secure videoconferencing service.

Based on the above factors, I have decided that in this instance, the disclosure of the documents would, on balance, be contrary to the public interest.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

Summary of my decision

In conclusion, I have decided to:

- grant you full access to 1 document;
- grant you part access to 7 documents; and
- refuse access to 7 documents.

I have decided that:

- documents 1, 2, 3, 5, 8, 11, and 15 are conditionally exempt, in full or in part, under section 47F(1) of the FOI Act, and disclosure would be contrary to the public interest for the purposes of section 11A(5).
- documents 4, 6, 7, 9, 10, 12, and 14 are conditionally exempt, in full or in part, under section 47G(1) of the FOI Act, and disclosure would be contrary to the public interest for the purposes of section 11A(5).
- Documents 3 and 15 are conditionally exempt, in part, under section 47E(d) of the FOI Act, and disclosure would be contrary to the public interest for the purposes of section 11A(5).