



Reference: [R27824218]

FOI 054/16/17 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by Mr Dan Monceaux under the *Freedom of Information Act 1982* (FOI Act), for access to:

“I am writing to request access to minutes of all meetings of the Woomera Prohibited Area Advisory Board under the Commonwealth Freedom of Information Act 1982

excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request. In addition, excluding duplicates of documents”.

FOI decision maker

2. I am the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified nine documents as matching the description of the request.

4. I have added an Item to each of the documents.

Decision

5. I have decided to:

- a. release five documents in full;
- b. partially release four documents in accordance with section 22(1)(a)(ii) [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47G [public interest conditional exemptions-business] and section 33(a)(iii) [Documents affecting international relations] of the FOI Act;

Material taken into account

6. In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act;

- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
- e. advice received from third parties

Reasons for decision

Section 33(a)(iii) – International relations

7. Section 33(a)(iii) of the FOI Act exempts a document if disclosure of the document would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth. Paragraph 5.30 of the Guidelines describes international relations as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them, including relations between government agencies.

8. The documents within the scope of this request contain information, which if released, could reasonably be expected to damage the international relations of the Commonwealth. This information details visits of other countries similar facilities and the cooperation between these countries. If this information were to be publicly released by Defence without specific authorisation from the other nations, it would likely cause damage to the international relations of the Commonwealth insofar as it could limit the Commonwealth's ability to deal with these countries in relation to similar matters in the future. The disclosure of such information may diminish the confidence which another country has in Australia as a reliable recipient of its confidential information, making that country less willing to cooperate with Australian agencies in the future.

9. Accordingly, I consider the release of the information so marked, would or could reasonably be expected to, cause damage to the international relations of the Commonwealth. I therefore consider this information exempt under section 33(a)(iii) of the FOI Act.

Section 47G – Business Affairs

10. Upon examination of the documents, I identified information, specifically information from a number of businesses.

11. Section 47G of the FOI Act states;

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...

12. I note that the use of the word 'could' in this provision requires no more than a degree of reasonableness being applied in deciding whether disclosure would cause the consequences specified.

13. I am satisfied that the expected effect of disclosing material identified as exempt under section 47G could have an adverse effect on the businesses as disclosure of the information relating to local Indigenous communities and corporations would impact upon the heritage and cultural sensitivities associated with these organisations.

14. In light of the above, I have decided that the specified material identified is in fact conditionally exempt pursuant to section 47G of the FOI Act. Section 11A (5) provides that, if a document is conditionally exempt, it must be disclosed 'unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest'.

Section 47G - Public interest considerations

15. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors being that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource and release of this information may increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act). It would also promote effective oversight of public expenditure.

16. Paragraph 6.29 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I found particularly relevant to this request are that release of this information could reasonably be expected to prejudice the agency's ability to obtain similar information in the future and harm the interests of a group of individuals, in this case the Indigenous communities and corporations that provided quotations.

17. As outlined in paragraph 11 above, releasing business information is likely to harm their commercial interests, which in turn is likely to make businesses more reluctant to provide the information to Defence for future Board Meetings.

18. I do not believe that the removal of the business information significantly detracts from the value of the document being sought by the applicant.

19. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents. Therefore, I have decided that it would be contrary to the public interest to release the information considered under section 47G of the FOI Act.

jan.andrews

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Jan Andrews
Accredited Decision Maker
Associate Secretary Group

10 November 2016