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Statement of reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Position Number XXXXXXXXX

Applicant: Applicant name

Decision date: 5 November 2018

FOI reference number: FOI XXXXX

Dear Applicant name

Freedom of Information Request: FOI XXXXX

1. I have made a decision to refuse access to the document[s] relevant to your request.
2. I have made a decision to release the document[s] relevant to your request in part.

Summary

3. I, Position Number xxxxxxxx, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).
4. On [date], you made a request for access to documents in the possession of the Department. You specifically sought access to:

"...Insert content of FOI request here..."
5. Detail here any communications about revising or clarifying the scope of the request, including if a section 24AB request consultation took place.
6. As no extensions of time have been applied to process your request, a decision is due by Day Month 2018.
7. As an extension of time was applied under section(s) [15(6)] [15AA] [15AB] [15AC] of the FOI Act to process your request, a decision is due by [date].
8. As you are seeking access to document[s] that contain your own personal information, Regulation 5(1) of the *Freedom of Information (Charges) Regulations 1982* provides that no charge is payable.
9. I have decided not to impose a charge in relation to this request, in accordance with regulation 3(1) of the *Freedom of Information (Charges) Regulations 1982*.

10. On [date] the Department provided you with Charges Notice, assessing charges in the amount of [price]. On [date] you agreed to pay the charge, and paid [the full amount of [price]] [a deposit of [price]]. As a decision has now been made, charges have been reassessed based on the actual cost of processing your request, as required by Regulation 10(1) of the Freedom of Information (Charges) Regulations 1982. The final charge is [price]. [As the new charge is less than the amount already paid by you, regulation 10(4)(a) provides that a refund of the difference in the amount of [price] shall be made.] [As the new charge is more than the amount already paid by you, but I have decided not to grant the request for access, regulation 10(2) provides that no further charge is payable.] [As the new charge is more than the amount already paid by you, and I have decided to give access to all documents without deletions and in the form requested, Regulation 10(3) provides that the higher amount can be charged. Regulation 4(10)(b) provides that the payment made by you shall be treated as a deposit on account of the charge.] [Documents released to you in accordance with this decision will be provided upon payment of remaining charges in the amount of [price], in accordance with section 11A(1)(b) of the FOI Act.] [As you were not notified of a decision within the statutory time limit (including any extension), Regulation 5(2)-(3) provides the Department cannot impose a charge for providing access. Regulation 14 provides that your [payment][deposit] is to be refunded.]
11. The Department has undertaken a reasonable search of its records and has identified X document[s] relevant to your request, as set out above. The document[s] relevant to your request [are] [is] listed at Schedule 1.

Decision

12. I have made a decision to refuse access to the document[s] relevant to your request. The document[s] that I have chosen to refuse access to [are] [is] set out in Schedule 1, together with the applicable exemption provision[s].
13. I have made a decision to release the document[s] relevant to your request in part. The document[s] that I have chosen to [grant access in full] [or] [grant access in part] [or] [refuse access to] [are] [is] set out in Schedule 1, together with the applicable exemption provision[s]. Where I have decided to grant access in part, I have provided access to an edited copy of document[s], modified by deletions in accordance with section 22(2) of the FOI Act.
14. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.
15. During the processing of your request the Department consulted a third party potentially affected by the release of the documents. As previously advised to you, this third party was [list name only if it was a business or if an individual consented to their identity being released]. That third party has not objected to information being released, noting redactions have been made under section 22(1) of the FOI Act to remove [irrelevant material] [exempt material in accordance with this decision]. As the third party has made no objections to the remaining content being released, in accordance with section 27(8) of the FOI Act, the Department is able to release the documents to you with this decision.

Material taken into account

16. In accordance with section 26(1)(a) of the FOI Act, my findings on any material question of fact, the material on which those findings were based and the reasons for my decision to [refuse] [grant partial] access to the document[s] follow[s].

17. I have taken the following material into account in making my decision:

- the terms of your request
- The types of documents that are in the Department's possession;
- the content of the document[s] that fall[s] within the scope of your request;
- [details of any relevant correspondence entered into by applicant and agency];
- Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth. I also considered the following provision[s] of the FOI Act relevant to my decision:
 - Section 11B Public interest exemption – factors
 - Section 22 Access to edited copies with exempt or irrelevant material deleted
 - Section 33 Documents affecting national security, defence or international relations
 - Section 34 Cabinet documents
 - Section 37 Documents affecting law enforcement and protection of public safety
 - Section 38 Documents to which secrecy provision of enactments apply
 - Section 42 Documents subject to legal professional privilege
 - Section 45 Documents communicated in confidence
 - Section 45A Parliamentary Budget Office documents
 - Section 46 Documents disclosure of which would be in contempt of Parliament or court
 - Section 47 Documents disclosing trade secrets or commercially valuable information
 - Section 47B Public interest conditional exemptions--Commonwealth-State relations
 - Section 47C Public interest conditional exemptions--deliberative processes
 - Section 47D Public interest conditional exemptions--financial or property interests of the Commonwealth
 - Section 47E Public interest conditional exemptions--certain operations of agencies
 - Section 47F Public interest conditional exemptions--personal privacy
 - Section 47G Public interest conditional exemptions--business
 - Section 47H Public interest conditional exemptions--research
 - Section 47J Public interest conditional exemptions--the economy
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines);
- the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A];
- [insert further items as appropriate].

18. A full extract of all FOI Act provisions used to make my decision are provided in Schedule 2.

Reasons for Decision

19. I have decided to refuse access to document[s] within the scope of your request in accordance with the following exemption[s] in the FOI Act:

20. I have decided to grant access to document[s] within the scope of your request, subject to the following exemption[s] in accordance with the FOI Act:

Documents affecting national security, defence or international relations

21. Section 33 of the FOI Act provides that a document is an exempt document if its disclosure:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

22. [explain how exemption applies]

Cabinet documents

23. Section 34 of the FOI Act provides that a document is an exempt document if:

- (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
- (b) it is an official record of the Cabinet; or
- (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
- (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.

24. [explain how exemption applies]

Documents affecting law enforcement and protection of public safety

25. Section 37 of the FOI Act provides that a document is an exempt document if its disclosure would or could reasonably be expected to:

- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
- (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or

- (c) endanger the life or physical safety of any person.

26. [explain how exemption applies]

Documents subject to legal professional privilege

27. Section 42 of the FOI Act provides that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege (LPP). The FOI Guidelines provide that, at common law, determining whether a communication is privileged requires a consideration of:

- (a) whether there is a legal adviser-client relationship;
- (b) whether the communication was for the purpose of giving or receiving legal advice or for use or in connection with actual or anticipated litigation;
- (c) whether the advice given is independent; and
- (d) whether the advice given is confidential.

28. [explain how exemption applies]

Documents containing material obtained in confidence

29. Section 45 of the FOI Act provides that a document is an exempt document if its disclosure under the Act would found an action by a person for a breach of confidence. The FOI Guidelines provide that, To found an action for breach of confidence (which means s 45 would apply), the following five criteria must be satisfied in relation to the information:

- (a) it must be specifically identified;
- (b) it must have the necessary quality of confidentiality;
- (c) it must have been communicated and received on the basis of a mutual understanding of confidence;
- (d) it must have been disclosed or threatened to be disclosed, without authority; and
- (e) unauthorised disclosure of the information has or will cause detriment.

30. [explain how exemption applies]

Documents disclosing trade secrets or commercially valuable information

31. Section 47 of the FOI Act provides that a document is an exempt document if its disclosure would disclose:

- (a) trade secrets; or
- (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

32. [explain how exemption applies]

Public interest conditional exemptions--Commonwealth-State relations

33. Section 47B of the FOI Act provides that a document is conditionally exempt if disclosure of the document:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth.

34. [explain how conditional exemption applies]

35. Accordingly, I have decided that the [documents] [and] [parts of documents] which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

36. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.

37. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (v) enhance the scrutiny of government decision making.
- (b) disclosure would inform debate on a matter of public importance;
- (c) disclosure would promote effective oversight of public expenditure;
- (d) disclosure would allow a person to access his or her personal information, or:

- (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
- (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
- (e) disclosure could contribute to the maintenance of peace and order;
- (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
- (g) disclosure could contribute to the enforcement of the criminal law;
- (h) disclosure could contribute to the administration of justice for a person;
- (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
- (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
- (k) disclosure could contribute to innovation and the facilitation of research.

38. I also considered the following factors which do not favour disclosure:

- (a) disclosure would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; and
- (b) disclosure would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth.
- (c) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (d) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;

- (e) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
 - (f) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
 - (g) disclosure could reasonably be expected to impede the administration of justice for an individual;
 - (h) disclosure could reasonably be expected to impede the protection of the environment;
 - (i) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
 - (j) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
 - (k) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
 - (l) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
 - (m) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;
 - (n) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
 - (o) disclosure could reasonably be expected to prejudice the management function of an agency; and
 - (p) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.
39. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.
40. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Public interest conditional exemptions--deliberative processes

41. Section 47C of the FOI Act provides that a document is conditionally exempt if its disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth.
42. [explain how conditional exemption applies]
43. Accordingly, I have decided that the [documents] [and] [parts of documents] which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption.

Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

44. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.
45. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
 - (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (v) enhance the scrutiny of government decision making.
 - (b) disclosure would inform debate on a matter of public importance;
 - (c) disclosure would promote effective oversight of public expenditure;
 - (d) disclosure would allow a person to access his or her personal information, or:
 - (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
 - (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
 - (e) disclosure could contribute to the maintenance of peace and order;
 - (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
 - (g) disclosure could contribute to the enforcement of the criminal law;
 - (h) disclosure could contribute to the administration of justice for a person;

- (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
- (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
- (k) disclosure could contribute to innovation and the facilitation of research.

46. I also considered the following factors which do not favour disclosure:

- (a) disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth;
- (b) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (c) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- (d) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- (e) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- (f) disclosure could reasonably be expected to impede the administration of justice for an individual;
- (g) disclosure could reasonably be expected to impede the protection of the environment;
- (h) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- (i) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
- (j) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;

- (k) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
- (l) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;
- (m) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
- (n) disclosure could reasonably be expected to prejudice the management function of an agency; and
- (o) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

47. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

48. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Public interest conditional exemptions--certain operations of agencies

49. Section 47E of the FOI Act provides that a document is conditionally exempt if its disclosure would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

50. [explain how conditional exemption applies]

51. Accordingly, I have decided that the [documents] [and] [parts of documents] which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

52. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.

53. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (v) enhance the scrutiny of government decision making.
- (b) disclosure would inform debate on a matter of public importance;
- (c) disclosure would promote effective oversight of public expenditure;
- (d) disclosure would allow a person to access his or her personal information, or:
 - (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
 - (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
- (e) disclosure could contribute to the maintenance of peace and order;
- (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
- (g) disclosure could contribute to the enforcement of the criminal law;
- (h) disclosure could contribute to the administration of justice for a person;
- (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
- (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
- (k) disclosure could contribute to innovation and the facilitation of research.

54. I also considered the following factors which do not favour disclosure:

- (a) disclosure would, or could reasonable be expected to, prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;

- (b) disclosure would, or could reasonable be expected to, prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) disclosure would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
- (e) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (f) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- (g) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- (h) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- (i) disclosure could reasonably be expected to impede the administration of justice for an individual;
- (j) disclosure could reasonably be expected to impede the protection of the environment;
- (k) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- (l) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
- (m) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- (n) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
- (o) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;

- (p) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
- (q) disclosure could reasonably be expected to prejudice the management function of an agency; and
- (r) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

55. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

56. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Public interest conditional exemptions--personal privacy

57. 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).

58. [explain how conditional exemption applies]

59. Accordingly, I have decided that the [documents] [and] [parts of documents] which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

60. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.

61. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and

- (v) enhance the scrutiny of government decision making.
- (b) disclosure would inform debate on a matter of public importance;
- (c) disclosure would promote effective oversight of public expenditure;
- (d) disclosure would allow a person to access his or her personal information, or:
 - (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
 - (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
- (e) disclosure could contribute to the maintenance of peace and order;
- (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
- (g) disclosure could contribute to the enforcement of the criminal law;
- (h) disclosure could contribute to the administration of justice for a person;
- (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
- (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
- (k) disclosure could contribute to innovation and the facilitation of research.

62. I also considered the following factors which do not favour disclosure:

- (a) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (b) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;

- (c) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- (d) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- (e) disclosure could reasonably be expected to impede the administration of justice for an individual;
- (f) disclosure could reasonably be expected to impede the protection of the environment;
- (g) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- (h) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
- (i) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- (j) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
- (k) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;
- (l) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
- (m) disclosure could reasonably be expected to prejudice the management function of an agency; and
- (n) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

63. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

64. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Public interest conditional exemptions--business

65. Section 47G of the FOI Act provides that 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, Norfolk Island 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.

66. [explain how conditional exemption applies]

67. Accordingly, I have decided that the [documents] [and] [parts of documents] which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

68. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.

69. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (v) enhance the scrutiny of government decision making.
- (b) disclosure would inform debate on a matter of public importance;
- (c) disclosure would promote effective oversight of public expenditure;
- (d) disclosure would allow a person to access his or her personal information, or:
 - (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
 - (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
- (e) disclosure could contribute to the maintenance of peace and order;

- (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
- (g) disclosure could contribute to the enforcement of the criminal law;
- (h) disclosure could contribute to the administration of justice for a person;
- (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
- (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
- (k) disclosure could contribute to innovation and the facilitation of research.

70. I also considered the following factors which do not favour disclosure:

- (a) disclosure 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) disclosure could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island 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.
- (a) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (b) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- (c) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- (d) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- (e) disclosure could reasonably be expected to impede the administration of justice for an individual;

- (f) disclosure could reasonably be expected to impede the protection of the environment;
- (g) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- (h) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
- (i) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- (j) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
- (k) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;
- (l) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
- (m) disclosure could reasonably be expected to prejudice the management function of an agency; and
- (n) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

71. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.
72. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Access to documents

73. The document[s] released to you in accordance with the FOI Act [is][are] enclosed.
74. Following payment of the outstanding charge as set out above, the Department will provide the document[s] released to you in accordance with the FOI Act.
75. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.

Your rights of review

76. If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal Review

77. Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

78. You can make your application for internal review in one of the following ways:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

Telephone: 1300 735 464
Post: Client Liaison Unit, Department of Veterans' Affairs
GPO Box 9998, Melbourne VIC 3001
Facsimile: (03) 9284 6170
Email: clu@dva.gov.au

Information Commissioner Review

79. Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

80. You can make your application for Information Commissioner review in one of the following ways:

Online: www.oaic.gov.au
Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney NSW.

81. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

82. If you wish to discuss this decision, please do not hesitate to contact me using the following details:

Telephone: (02) 6289 [xxxx]
Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

83. If you wish to discuss this decision, please do not hesitate to contact the Client Liaison Unit using the following details:

Telephone: 1300 735 464
Post: Client Liaison Unit, Department of Veterans' Affairs

GPO Box 9998, Melbourne VIC 3001
Facsimile: (03) 9284 6170
Email: clu@dva.gov.au

[Position number]
Authorised officer

5 November 2018



Schedule of documents

Applicant: [applicant]
Decision date: [day] [month] 2017
FOI reference number: FOI XXXX

Doc ref	Date of document	Document description	Pages	Decision	Exemption provision



Internal review decision made under the *Freedom of Information Act 1982*

Internal review decision and reasons for decision of [Name], [Position], Information Law,
Legal Services & Assurance

Applicant: [Applicant]
Date of primary decision: [Day] [Month] 2017
FOI reference number: FOI XXXX
Internal review decision date: 5 November 2018
Internal review reference number: IR XXXX

Dear [name]

1. The purpose of this letter is to give you a decision about your request for internal review under the *Freedom of Information Act 1982* (FOI Act).
2. I have made a decision to affirm the original decision made by decision-maker, position, Information Law, Legal Services & Assurance, not to release any documents subject to your request.
3. I have made a decision to vary the original decision made by decision-maker, position, Information Law, Legal Services & Assurance, not to release any documents subject to your request.
4. I have made a decision to affirm the original decision made by decision-maker, position, Information Law, Legal Services & Assurance, to release documents subject to your request in part.
5. I have made a decision to vary the original decision made by decision-maker, position, Information Law, Legal Services & Assurance, to release documents subject to your request in part.

Summary

6. I, [NAME], Director, Information Law, Legal Services & Assurance, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to review decisions about access to documents in the possession of the Department in accordance with section 54C of the FOI Act.
7. I, Vicki [REDACTED] Assistant Director, Information Law, Legal Services & Assurance, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to review

decisions about access to documents in the possession of the Department in accordance with section 54C of the FOI Act.

8. I, Alexander [b 4/EO & 10] Legal Officer, Information Law, Legal Services & Assurance, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to review decisions about access to documents in the possession of the Department in accordance with section 54C of the FOI Act.

9. On [date] you made a request for access to documents in the possession of the Department of Veterans' Affairs (the Department). Your request sought access to:

[scope]

10. On [date] the Department provided you with an estimate of a charge in the amount of [amount].

11. On [date] you requested a [reduction/waiver] of charges associated with your request on [the basis that the release of the documents is in the public interest/grounds of financial hardship].

12. On [date] the Department denied your request for a [reduction/waiver] of charges and affirmed the decision to impose a charge.

13. On [date] the Department agreed to a [waiver/reduction of charges] associated with your request [and provided you with a revised estimate of charges in the amount of [amount]].

14. On [date] you agreed to pay the charge and paid [charges in full/a deposit of [amount]].

15. On [date] you were provided with a decision relating to access to documents within scope of your request. The documents relevant to your request were [provided to you in part/exempt in full], in accordance with section [provision/s] of the FOI Act.

16. On [date] you requested an internal review of the decision to [grant access in part/exempt documents in full].

17. The Department has undertaken a search of its records and has identified all documents that fall within the scope of your request, as set out above. The documents relevant to your request are listed in the schedule of documents at Schedule 1.

Decision and Reasons for Decision

18. I have made a decision to affirm the original decision made by [decision-maker, position, division] on [date], not to release any documents subject to your request.]

19. I have made a decision to vary the original decision made by [decision-maker, position, division] on [date], not to release any documents subject to your request.

20. I have made a decision to affirm the original decision made by [decision-maker, position, division] on [date], to release documents subject to your request in part.
21. I have made a decision to vary the original decision made by [decision-maker, position, division] on [date], to release documents subject to your request in part.
22. In accordance with Section 22(2), I have decided to provide access to an edited copy, modified by deletions, to documents [list documents – this includes ALL documents with deletions, irrelevant matter or other].
23. In accordance with Section 24A, I have made a decision that documents subject to your request do not exist or cannot be found.
24. In accordance with Section 26(1)(a) of the FOI Act, the findings on any material question of fact, referring to the material on which those finding were based and the reasons for my decision to [refuse/grant partial] access to documents follow.
25. I have taken the following material into account in making my decision:
- the content of the documents that fall within the scope of your request;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth. I also considered the following provision[s] of the FOI Act relevant to my decision:
 - Section 11B Public interest exemption – factors
 - Section 22 Access to edited copies with exempt or irrelevant material deleted
 - Section 33 Documents affecting national security, defence or international relations
 - Section 34 Cabinet documents
 - Section 37 Documents affecting law enforcement and protection of public safety
 - Section 38 Documents to which secrecy provision of enactments apply
 - Section 42 Documents subject to legal professional privilege
 - Section 45 Documents communicated in confidence
 - Section 45A Parliamentary Budget Office documents
 - Section 46 Documents disclosure of which would be in contempt of Parliament or court
 - Section 47 Documents disclosing trade secrets or commercially valuable information
 - Section 47B Public interest conditional exemptions--Commonwealth-State relations
 - Section 47C Public interest conditional exemptions--deliberative processes
 - Section 47D Public interest conditional exemptions--financial or property interests of the Commonwealth
 - Section 47E Public interest conditional exemptions--certain operations of agencies
 - Section 47F Public interest conditional exemptions--personal privacy
 - Section 47G Public interest conditional exemptions--business
 - Section 47H Public interest conditional exemptions--research
 - Section 47J Public interest conditional exemptions--the economy
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).
26. A full extract of all provisions I used to make my decision are provided in Schedule 2.

Documents affecting national security, defence or international relations (s33)

27. Section 33 exempts documents that affect Australia's national security, defence or international relations. The exemption comprises two distinct categories of documents:

- (a) documents which, if disclosed, would, or could reasonably be expected to, cause damage to the Commonwealth's security, defence or international relations
- (b) documents that would divulge information communicated in confidence to the Commonwealth by a foreign government, an agency of a foreign government or an international organisation.

[expand on how document falls in this provision]

Cabinet documents (s34)

28. The Cabinet exemption in s 34 of the FOI Act is designed to protect the confidentiality of the Cabinet process and to ensure that the principle of collective ministerial responsibility (fundamental to the Cabinet system) is not undermined. This exemption is not subject to the public interest test.

[expand on how document falls in this provision]

Documents affecting law enforcement and protection of public safety (s37)

29. This exemption applies to documents which, if released, would or could reasonably be expected to affect law enforcement or public safety in any of the following ways:

- prejudice the conduct of an investigation of a breach, or possible breach, of the law
- prejudice the conduct of an investigation of a failure, or possible failure, to comply with a taxation law
- prejudice the enforcement, or the proper administration, of the law in a particular instance
- reveal the existence or identity of a confidential informant, or the absence of a confidential source of information, in relation to the enforcement or administration of the law
- endanger the life or physical safety of any person
- prejudice the fair trial of a person, or the impartial adjudication of a particular case
- disclose lawful methods or procedures for investigating, preventing, detecting or dealing with breaches of the law where disclosure of those methods would be reasonably likely to reduce their effectiveness
- prejudice the maintenance or enforcement of lawful methods for the protection of public safety (see s 37(1), (2)).

[expand on how document falls in this provision]

Documents to which secrecy provisions of enactments apply (s38)

30. A document is exempt if its disclosure is prohibited under a provision of another Act (s 38(1)(a)) and either:

- that provision is specified in Schedule 3 to the FOI Act (s 38(1)(b)(i)), or
- s 38 expressly applies to the document or information contained in the document, by that provision, or by another provision of that or any other enactment (s 38(1)(b)(ii)).

[expand on how document falls in this provision]

Documents subject to legal professional privilege (s42)

31. Section 42(1) exempts a document that is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege (LPP). The underlying policy basis for LPP is to promote the full and frank disclosure between a lawyer and client to the benefit of the effective administration of justice.

[expand on how document falls in this provision]

Documents containing material obtained in confidence (s45)

32. Section 45 provides that a document is an exempt document if its disclosure under the Act would found an action by a person for a breach of confidence. The exemption is available where the person/s who provided the confidential information would be able to bring an action under the general law for breach of confidence to prevent disclosure, or to seek compensation for loss or damage arising from disclosure.

[expand on how document falls in this provision]

Documents disclosure of which would be contempt of Parliament or contempt of court (s46)

33. Section 46 provides that a document is exempt if public disclosure of the document would, apart from the FOI Act and any immunity of the Crown:

(a) be in contempt of court

(b) be contrary to an order or direction by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath

(c) infringe the privileges of the Parliament of the Commonwealth or a State, or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or Norfolk Island.

[expand on how document falls in this provision]

Documents disclosing trade secrets or commercially valuable information (s47)

34. Section 47 provides that a document is an exempt document if its disclosure would disclose:

(a) trade secrets, or

(b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

[expand on how document falls in this provision]

Conditional Exemptions

35. Where a document is assessed as conditionally exempt, the agency or minister must give access to it unless in the circumstances access would, on balance, be contrary to the public interest (s 11A(5)). The public interest test is weighted in favour of giving access to documents so that the public interest in disclosure remains at the forefront of decision making. The statement of reasons for the decision must include the public interest factors taken into account (s 26(1)(aa)). Further guidance on conditional exemptions and the public interest test is in Part 6.

[expand on how document falls in this provision]

Commonwealth-State relations (s47B)

36. Section 47B creates a conditional exemption where disclosure of a document either:

- would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State (s 47B(a)), or
- would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth (s 47B(b)).

[expand on how document falls in this provision]

Deliberative processes (s47C)

37. A document may be conditionally exempt if it includes deliberative matter. Deliberative matter is content that is in the nature of, or relating to either:

- an opinion, advice or recommendation that has been obtained, prepared or recorded
- a consultation or deliberation that has taken place
- in the course of, or for the purposes of, a deliberative process of the agency or minister (s 47C(1)).

[expand on how document falls in this provision]

Financial or property interests of the Commonwealth (s47D)

38. Section 47D conditionally exempts a document where disclosure would have a substantial adverse effect on the financial or property interests of the Commonwealth, Norfolk Island or an agency.

[expand on how document falls in this provision]

Certain operations of agencies (s47E)

39. Section 47E conditionally exempts documents where disclosure would, or could reasonably be expected to, prejudice or have a substantial adverse effect on certain listed agency operations.

[expand on how document falls in this provision]

Personal privacy (s47F)

40. Section 47F protects personal privacy by providing that a document is conditionally exempt if its disclosure under FOI would involve the unreasonable disclosure of personal information of any person (including a deceased person).

[expand on how document falls in this provision]

Business (other than documents to which s47 applies) (s47G)

41. A document is conditionally exempt if it discloses information (business 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, where the disclosure of the information:

- would, or could reasonably be expected to, unreasonably affect the 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 (s 47G(1)(a)), or
- could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island 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 (s 47G(1)(b)).

[expand on how document falls in this provision]

Research (s47H)

42. A document is conditionally exempt under s 47H if it meets two criteria:

- (a) it contains information relating to research that is being, or is to be, undertaken by an officer of an agency specified in Schedule 4 of the Act (that is, the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and the Australian National University) and
- (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the agency or officer to disadvantage.

[expand on how document falls in this provision]

The economy (s47J)

43. Under s 47J(1) a document is conditionally exempt if its disclosure under the FOI Act would, or could reasonably be expected to, have a substantial adverse effect on Australia's economy by:

- (a) influencing a decision or action of a person or entity, or
- (b) giving a person (or class of persons) an undue benefit or detriment, in relation to business carried on by the person (or class), by providing premature knowledge of proposed or possible action or inaction of a person or entity.

[expand on how document falls in this provision]

Public interest conditional exemption [list provision and details in separate paragraphs below, addressing each provision and how it is relevant to the exemption of the information]

44. (Example) Section [provision] provides that a document is conditionally exempt if its disclosure under the Act would disclose matter [in the nature of/affecting/relating to] [Commonwealth-State relations, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of or for the purposes of, the deliberative processes involved in the function of the agency, financial or property interests of the Commonwealth, certain operations of the Department, personal privacy of an individual, business information, research]. The exempt material contains [information specific to provision] regarding [subject matter].

45. Section 11A(5) provides that an agency 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 would, on balance, be contrary to the public interest.

46. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) promote the objects of the Act.
- (b) inform debate on a matter of public importance.
- (c) promote effective oversight of public expenditure.

47. I also considered the following factors which do not favour disclosure:

- (a) could reasonably be expected to impede or prejudice an agency's ability to obtain confidential information.
- (b) could reasonably be expected to prejudice an agency's ability to obtain similar information in the future.
- (c) could reasonably be expected to harm the interests of an individual or group of individuals.

[this list is not exhaustive – add more factors as appropriate to decision]

48. On balance, I considered that the public interest against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Your rights of review

Your rights of review

49. If you are dissatisfied with my decision, you may apply for Information Commissioner review of the decision.

Information Commissioner Review

50. Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online: www.oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Email: enquiries@oaic.gov.au

In person: Level 3, 175 Pitt Street, Sydney NSW.

51. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contacts

52. If you wish to discuss this decision, please do not hesitate to contact me using the following details:

Telephone: (02) 6289 [xxxx]

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601

Facsimile: (02) 6289 6337

Email: foi@dva.gov.au

53. If you wish to discuss this decision, please do not hesitate to contact the Client Liaison Unit using the following details:

Telephone: 1300 735 464

Post: Client Liaison Unit, Department of Veterans' Affairs

GPO Box 9998, Melbourne VIC 3001

Facsimile: (03) 9284 6170

Email: clu@dva.gov.au

Yours sincerely

[NAME]

Director

Information Law

Legal Services & Assurance

Vicki s 47E(c) & (d)

Assistant Director

Information Law

Legal Services & Assurance

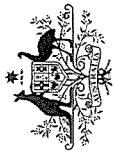
Alexander s 47E(c) & (d)

Legal Officer

Information Law

Legal Services & Assurance

5 November 2018



Schedule of documents

Applicant: [applicant]
Decision date: [month/year]
IR reference number: FOI XXXX

Document reference	Date of document	Author	Recipient	Document description	Full, partial or nil release	Exemption provision
[no]	[date]	[author]	[recipient]	[document description]	[full] [partial] [nil]	

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Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);

- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) 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.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

17 Requests involving use of computers etc

- (1) Where:
- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
 - (b) It appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
 - (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
 - (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:

- (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
- (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
- (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii); including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the Administrative Decisions (Judicial Review) Act 1977 does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.
(see section 11A).

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the Commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

34 Cabinet documents

General rules

- (1) A document is an exempt document if:
 - (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
 - (b) it is an official record of the Cabinet; or
 - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
 - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.

- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

Exceptions

- (4) A document is not an exempt document only because it is attached to a document to which subsection (1), (2) or (3) applies.

Note: However, the attachment itself may be an exempt document.

- (5) A document by which a decision of the Cabinet is officially published is not an exempt document.
- (6) Information in a document to which subsection (1), (2) or (3) applies is not exempt matter because of this section if the information consists of purely factual material, unless:
 - (a) the disclosure of the information would reveal a Cabinet deliberation or decision; and
 - (b) the existence of the deliberation or decision has not been officially disclosed.

37 Documents affecting enforcement of law and protection of public safety

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
 - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
 - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:
 - (a) witnesses; or
 - (b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or
 - (c) any other people who, for any other reason, need or may need, such protection.
- (3) In this section, law means law of the Commonwealth or of a State or Territory.

38 Documents to which secrecy provisions of enactments apply

- (1) Subject to subsection (1A), a document is an exempt document if:
 - (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and
 - (b) either:

- (i) that provision is specified in Schedule 3; or
 - (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.
- (3) This section applies in relation to a document so far as it contains personal information about a person if:
 - (a) the person requests access to the document; and
 - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the Migration Act 1958 as affected by section 503D of that Act.
- (4) In this section: enactment includes a Norfolk Island enactment.

42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
- (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.

45 Documents containing material obtained in confidence

- (1) A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.
- (2) Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:
 - (a) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
 - (b) an agency, the Commonwealth or Norfolk Island.

46 Documents disclosure of which would be contempt of Parliament or contempt of court

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;
- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or
- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
 - (a) trade secrets; or
 - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) Subsection (1) does not have effect in relation to a request by a person for access to a document:
 - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

Public interest conditional exemptions

47B Public interest conditional exemptions—Commonwealth-State relations etc.

A document is conditionally exempt if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth; or
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth; or
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:
 - (a) an agency; or

- (b) a Minister; or
- (c) the Government of the Commonwealth; or
- (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
 - (a) operational information (see section 8A);
 - (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

- (3) This section does not apply to any of the following:
 - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
 - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47D Public interest conditional exemptions—financial or property interests of the Commonwealth or Norfolk Island

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth, of Norfolk Island or of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47E Public interest conditional exemptions—certain operations of agencies

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

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47F Public interest conditional exemptions—personal privacy

General rule

- (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.
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

Access given to qualified person instead

- (4) Subsection (5) applies if:
- (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
 - (b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.
- (5) The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:
- (a) carries on the same occupation, of a kind mentioned in the definition of qualified person in subsection (7), as the first-mentioned qualified person; and
 - (b) is to be nominated by the applicant.
- (6) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
- (7) In this section:
- qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:
- (a) a medical practitioner;
 - (b) a psychiatrist;
 - (c) a psychologist;
 - (d) a counsellor;
 - (e) a social worker.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47G Public interest conditional exemptions—business

- (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, Norfolk Island 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.
- (2) Subsection (1) does not apply to trade secrets or other information to which section 47 applies.

- (3) Subsection (1) does not have effect in relation to a request by a person for access to a document:
 - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (4) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.
- (5) For the purposes of subsection (1), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47H Public interest conditional exemptions—research

A document is conditionally exempt if:

- (a) it contains information relating to research that is being, or is to be, undertaken by an officer of an agency specified in Schedule 4; and
- (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the agency or officer to disadvantage.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47J Public interest conditional exemptions—the economy

- (1) A document is conditionally exempt if its disclosure under this Act would, or could be reasonably expected to, have a substantial adverse effect on Australia's economy by:
 - (a) influencing a decision or action of a person or entity; or
 - (b) giving a person (or class of persons) an undue benefit or detriment, in relation to business carried on by the person (or class), by providing premature knowledge of proposed or possible action or inaction of a person or entity.

Note: A person includes a body corporate and a body politic (see subsection 2C(1) of the Acts Interpretation Act 1901). Examples of a body politic include the government of the Commonwealth, a State, a Territory or a foreign country.

- (2) For the purposes of subsection (1), a substantial adverse effect on Australia's economy includes a substantial adverse effect on:
 - (a) a particular sector of the economy; or
 - (b) the economy of a particular region of Australia.
- (2A) For the purposes of paragraph (2)(b), Norfolk Island is taken to be a region of Australia.
- (3) The documents to which subsection (1) applies include, but are not limited to, documents containing matter relating to any of the following:
 - (a) currency or exchange rates;
 - (b) interest rates;
 - (c) taxes, including duties of customs or of excise;
 - (d) the regulation or supervision of banking, insurance and other financial institutions;
 - (e) proposals for expenditure;

- (f) foreign investment in Australia;
- (g) borrowings by the Commonwealth, Norfolk Island, a State or an authority of the Commonwealth, of Norfolk Island or of a State.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

Julie (Right to Know)

Julie (Right to Know)

LEX ID	24297	Outcome	Refused
DVA file number		Charges notified (\$)	0.00
Applicant name	FOI - Julie (Right to Know)	Charges collected (\$)	0.00
DVA officer	Canberra - George [REDACTED]	Date received/valid	31 August 2018
Source	3. Email	Date dcn	
Group	FOI Primary	notif'd/wdn/trsf	
PPI	No	Date finalised	2 October 2018
File request	Not required	Access level	Unrestricted
Practical refusal reasons	N/A	Date created	5 September 2018
Response time	0-30 days	Last updated	5 November 2018
Disclosure log	N/A	Due date	1 Oct 2018
Status	Finalised	Days running	32
		Days to go (if clock running)	
		Days running beyond timeframe (if clock stopped)	1

Client/Rep details Please use this email address for all replies to this request:

foi+request-4766-7f73f37e@righttoknow.org.au

Scope/Notes OUTCOME:
Refused in full to 11 documents - ss 47C & 47E(d) applied.

REQUEST:
Dear Department of Veterans' Affairs,

I seek copy of all the DVA Executive Management Board Minutes for FY16/17.

Yours faithfully,

Julie

File notes

Date	Type	DVA officer	Timeframe days
[REDACTED] s 22			
2 Oct 2018	4. Clock stop	Leia [REDACTED]	
Clock stopped. Reason: Decision issued to applicant by email 2/10/18			
2 Oct 2018	s47E - Certain operations of agencies	Leia [REDACTED]	
2 Oct 2018	s47C - Deliberative processes	Leia [REDACTED]	

2 Oct 2018 1. File note Leia s 47E(c) & (d)
Asked to take back. Decision issued as per discussion with George - exemptions applied under ss 47C & 47E(d) to all 11 documents.

28 Sep 2018 1. File note Leia s 47E(c) & (d)
George looked at docs following chat. Advised they are sensitive & not to be released. George will consider application of ss 47C & 47E(d)

14 Sep 2018 1. File note Leia s 47E(c) & (d)
Advised to handover matters to George. Discussed matter, George of view not to release due to sensitivities, deliberative in nature and adverse impact on dept.

6 Sep 2018 1. File note Amy s 47E(c) & (d)
EMB search results - 11 docs

5 Sep 2018 8. Amy s 47E(c) & (d)
Acknowledgment
Letter

5 Sep 2018 1. File note Amy s 47E(c) & (d)
Search request sent to EMB Secretariat

31 Aug 2018 5. Clock start Amy s 47E(c) & (d) 30
Clock started

From: [REDACTED] Linda on behalf of INFORMATION.ACCESS
Sent: Tuesday, 4 September 2018 10:15 AM
To: Information.Law
Cc: INFORMATION.ACCESS
Subject: FW: Freedom of Information request - Department's Executive Management Board Minutes [TO BE CLASSIFIED] [DLM=For-Official-Use-Only]

Hi Information Law

Please see to the following request.

Regards.

Linda [REDACTED]
Assistant Information Access Officer
National Information Access Processing Team (NIAPT) Department of Veterans' Affairs Tel [REDACTED] Fax: (02) 9213 7400

-----Original Message-----

From: Julie [mailto:foi+request-4766-7f73f37e@righttoknow.org.au]
Sent: Friday, 31 August 2018 8:58 PM
To: FOI <AMBFOI@dva.gov.au>
Subject: Freedom of Information request - Department's Executive Management Board Minutes [TO BE CLASSIFIED]

Dear Department of Veterans' Affairs,

I seek copy of all the DVA Executive Management Board Minutes for FY16/17.

Yours faithfully,

Julie

Please use this email address for all replies to this request:
foi+request-4766-7f73f37e@righttoknow.org.au

Is foi@dva.gov.au the wrong address for Freedom of Information requests to Department of Veterans' Affairs? If so, please contact us using this form:
https://www.righttoknow.org.au/change_request/new?body=dva

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.