



## Australian Government

### Department of Foreign Affairs and Trade

FOI Ref: LEX393  
File No: 19/24632  
28 February 2020

Mr Edward Kerrigan

By email to: [foi+request-5587-2c630c60@righttoknow.org.au](mailto:foi+request-5587-2c630c60@righttoknow.org.au)

Dear Mr Kerrigan

#### ***Re. Freedom of Information Request***

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

On 25 September 2019 you requested:

*“- Rental agreements or leases in respect of properties rented or leased by DFAT in Tandaj, Honiara, Solomon Islands in calendar years 2013 - 2016;  
- Documents evidencing rent or lease payments paid by DFAT in respect of such properties during the period 2013- 2016”.*

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests. I have identified documents relevant to your request and, after careful consideration, I have decided to release the document with some material exempted.

In making my decision I have taken into account your request and the documents within its scope, the FOI Act, the Australian Information Commissioner's guidelines under s93A of the FOI Act, and the comments provided by the affected third parties. The reasons for my decision are set out below. Where I refer to sections of the FOI Act, these are available at [www.legislation.gov.au](http://www.legislation.gov.au).

Some material contained within the documents captured by your request is irrelevant/outside the scope of your request (section 22(1)(a)(ii) of the FOI Act) as it does not concern terms of your request. In determining what is irrelevant to your request, I have taken note of the email which you received from the Department on 26 August 2019, in which you were invited to respond if you required the names and contact details of officers not in the Senior Executive Service or equivalent. As you have not stated that you

require this information, I have decided to remove them from the document being released to you.

Some material is exempt under section 47G of the FOI Act because disclosure of the material could reasonably be expected to prejudice the business affairs of third parties by revealing their sensitive commercial and financial information. In reaching this decision, I have taken into account comments provided to the Department through the third consultation process.

Some material is exempt under section 47E(d) of the FOI Act, as its release would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department. Third parties, including lessors, would have a reasonable expectation that the Department would hold their commercial information in confidence. Release of the material would create a risk that similar stakeholders in future may be less willing to provide their properties to rent for departmental purposes. This could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of DFAT pursuant to subsection 47E(d) of the FOI Act.

Some material is exempt as its release would have a substantial adverse effect on the management of personnel by the Commonwealth (subsection 47E(c) of the FOI Act).

Some material is exempt under section 47F of the FOI Act, because release would constitute an unreasonable disclosure of the personal information of third parties named in the documents.

As sub section 47E(c), 47E(d), section 47F and section 47G of the FOI Act are conditional exemptions I have also considered whether providing access to the material in question would, on balance, be contrary to the public interest (section 11A of the FOI Act). In assessing the public interest I have considered the guidelines referred to above and the general public interest factors favouring disclosure.

I have concluded that release of the material in question is contrary to the public interest. In my view, the release of this material could reasonably be expected to harm the business interests of private organisations, and could reasonably be expected to cause them to lose confidence in any current and future commercial engagements with the Department. Release of some material is also contrary to the public interest because of the substantial and adverse effect of release on the Department's management of its personnel, and the Department's responsibility to appropriately manage third parties' personal information. In my view, releasing such information could reasonably prejudice the Department's ability to engage effectively with commercial partners and provide appropriate accommodation to its personnel overseas. For these reasons, I consider the public interest is weighed against disclosure.

Your review rights are attached for your reference.

Should you have any queries regarding this matter please contact the FOI and Privacy Law Section by email [foi@dfat.gov.au](mailto:foi@dfat.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bina Chandra', with a stylized flourish at the end.

Bina Chandra

Assistant Secretary

Property Services Branch

### **Your review rights**

#### *Internal review*

You may apply for internal review of the decision (s54 of the FOI Act). 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.

Any request for internal review should be directed via email to [foi@dfat.gov.au](mailto:foi@dfat.gov.au) or addressed to:

Freedom of Information and Privacy Law Section  
Department of Foreign Affairs and Trade  
R G Casey Building  
John McEwen Crescent  
Barton ACT 0221  
Australia

#### *Australian Information Commissioner*

You may apply within 60 days of the date of this letter to the Australian Information Commissioner to review my decision (s54L of the FOI Act). You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (s70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>