



28 August 2020

Dr A Vogl

**BY EMAIL:** [foi+request-6206-0aa48094@righttoknow.org.au](mailto:foi+request-6206-0aa48094@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 20/03/00704

File Number: OBJ2020/8086

Dear Dr Vogl,

**Freedom of Information (FOI) request - Access Decision**

On 09 March 2020, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

**1 Scope of request**

You have requested access to the following documents:

*I am writing to request access to the following documents or information:*

*[1] All documents relating to the review or evaluation of both the Community Sponsorship Program (CSP) and the Community Proposal Pilot (CPP), including the final report of any formal evaluation, or internal or external review, undertaken of either program.*

*[1.1] In particular, I request access to the documents (including reports, outcomes, recommendations and Departmental responses) arising from the following evaluations, undertaken either by the Department or external organisations including ARTD Consultants:*

*a. The Stage 1 evaluation of the CPP conducted in early 2014 and finalised by mid-2014; b. The Stage 2 evaluation of the CPP, completed in December 2014; and c. The Stage 3 comprehensive evaluation of the CPP, which assessed the CPP after the first entrants under the program had spent up to 12 months in Australia*

**2 Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

### **3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

### **4 Documents in scope of request**

The Department has identified 12 documents as falling within the scope of your request. These documents were in the possession of the Department on 09 March 2020 when your request was received.

**Attachment A** is a schedule which describes all relevant documents that are in scope and sets out my decision in relation to each of them.

### **5 Decision**

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release 8 documents in part with deletions
- Exempt 4 documents from release

### **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

#### **6.1 Section 22 of the FOI Act – irrelevant to request**

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

The Department's policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request. Keeping in mind the Department's policy, though not guided by it, I have considered the personal details, including names, business email addresses and phone numbers of officers not in the SES, as well as the mobile and work telephone numbers of SES officers and the relevance of

this information to the broader context of the document. I find that these details can, reasonably, be regarded as irrelevant to the scope of the request and to the context of the documents.

I have therefore decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request, and have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the documents have been considered for release to you as they are relevant to your request.

## **6.2 Section 34 of the FOI Act – Cabinet documents**

The documents I have exempted under section 34(3) of the FOI Act contain information that would reveal a Cabinet deliberation or decision. I have conducted checks and believe that this information has not been officially disclosed.

## **6.3 Section 47C of the FOI Act – Deliberative processes**

Section 47C(1) of the FOI Act provides that a document is conditionally exempt if its release would disclose deliberative matter, which includes matter in the nature of, or relating to opinion, advice or recommendation that is obtained for, or prepared for, or recorded for a 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.

I find that some documents, or parts of the documents, include correspondence that was developed during a consultative process. The documents in scope include collaborative correspondence circulated in the process of preparing a submission, which related to the Community Proposal Pilot (CPP), where collective and/or competing viewpoints that may have had a bearing on the eventual development of the CPP, and/or its successor/affiliate program – the Community Support Program, were presented and weighted. I find that this content is deliberative matter to which section 47C(1) applies.

I have considered whether any exceptions, per section 47C(2), apply to these documents or parts of documents and I am satisfied that these exceptions do not apply. I find that the documents are neither operational information for the purposes of section 8A, nor information that is purely factual.

I consider that the release of the documents, or some information within the documents, were it to be identified within the public sphere, carries a reasonable risk that the aims and objectives of the CPP (or affiliate program) may be undermined. I find that the Department's ability to run its programs effectively, including engagement with essential stakeholders for the purposes of delivering the CPP (or affiliate program), is too important to subject to any such risk. I find therefore that the Department's ability to deliver, monitor and/or review the CPP (or affiliate program) may be significantly and adversely impacted by the release of these documents.

Any disclosure resulting in the prejudice of the effectiveness of the Department's operational methods and procedures would result in the need for this Department, and potentially its law enforcement partners, to change those methods and/or procedures to avoid jeopardising their future effectiveness.

Accordingly, I find that the documents are conditionally exempt under section 47C(1) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

#### **6.4 Section 45 – Documents containing material obtained in confidence**

Section 45 of the FOI Act provides that 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.

Parts of the documents contain information from Approved Proposing Organisations (APOs), which has been extracted from the surveys and reports of those APOs and may also contain personal information about CPP clients on their settlement experiences in Australia. This information is held by the Department on an 'in-confidence' basis. Any disclosure under the FOI Act would result in a breach of confidence.

I am satisfied that the nature of the information is inherently confidential as:

- The information is specifically provided by Approved Proposing Organisations in circumstances giving rise to the obligation of confidence;
- The information has the necessary quality of confidentiality as it contains information that is not common knowledge or in the public domain;
- The information was provided to the Department and received on the basis of a mutual understanding of confidence;
- If the information was disclosed, it would be without the authority of the Approved Proposing Organisations or any of the clients they serve, and
- Disclosure of the information may cause detriment to the Approved Proposing Organisations or any of the clients they serve.

I am satisfied that the disclosure of the information within the documents would found an action by the APOs for a breach of confidence and as such I have decided that these documents are exempt from disclosure under section 45 of the FOI Act.

#### **6.5 Section 47F of the FOI Act – Personal Privacy**

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties. The information within the documents would reasonably identify a person, either through names, positions, system identifiers or descriptions of their circumstances.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known;*
- *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;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do not consider that the information relating specifically to the third parties would be relevant to the broader scope of your request, as you are seeking access to evaluative information about a program rather than information which wholly relates to other individuals.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

## **6.6 The public interest – section 11A of the FOI Act**

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does not seem to have the character of public importance. The matter has a very limited scope and, in my view, would be of interest to a very narrow section of the public.
- I consider that no insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- I consider there to be a strong public interest in the Department being able to manage its programs effectively towards the attainment of strategic outcomes. In finding that these strategic outcomes may be undermined through potential damage to important stakeholder relationships through the release of conditionally exempt information marked 's.47C(1)', I therefore consider that the release of this information is not in the public interest. disclosure of the personal information which is conditionally exempt under section 47F of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy.
- The Department is committed to complying with its obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy and meets its obligations under the Privacy Act. I consider that non-compliance with the Department's statutory obligations concerning the protection of personal information would be contrary to the public interest and that this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- b) access to the document could result in any person misinterpreting or misunderstanding the document;
- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

## 7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

## 8 Your Review Rights

### Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au)

OR

By mail to:  
Freedom of Information Section  
Department of Home Affairs  
PO Box 25  
BELCONNEN ACT 2617

### Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

## 9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

## 10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).

*Signed electronically*

**Position number 60081621**

Authorised Decision Maker | Freedom of Information Section  
FOI and Records Management Branch  
Data Division | Corporate and Enabling Group  
Department of Home Affairs



**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS  
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982***

**FOI request:** FA 19/08/00851  
**File Number:** OBJ2019/46476

No	Date of document	No. of pages	Description	Decision on release	
1.	-	4	Community Proposal Pilot (CPP) Evaluation – detailed brief	Partial	22(1)(a)(ii)
2.	26/03/2014	30	CPP Evaluation Report, Stage 1	Partial	22(1)(a)(ii) 47C(1) 45(1)
3.	01/04/2014	4	Minute – Evaluation of the Community Proposal Pilot – Stage one	Partial	22(1)(a)(ii) 47C(1) 47F(1)
4.			Submission # SM2014/00925	Exempt	34(3)
5.	12/2014	31	CPP Evaluation Report, Stage 2	Partial	22(1)(a)(ii) 47C(1) 45(1)
6.		3	Minute – Evaluation of the Community Proposal Pilot – Stage two	Partial	22(1)(a)(ii) 47C(1) 47F(1)
7.			Submission # MS15-001922	Exempt	34(3)
8.		12	CPP – Settlement Outcomes Analysis	Partial	22(1)(a)(ii) 47C(1) 45(1)
9.	11/2015	36	CPP Evaluation Report, Stage 3	Partial	22(1)(a)(ii) 47C(1) 45(1)
10.	8/12/2015	4	Minute – Evaluation of the Community Proposal Pilot – Final Report	Partial	22(1)(a)(ii) 47C(1)
11.			Submission # MS15-024497	Exempt	34(3)
12.			Submission # SM2014/00306	Exempt	34(3)