



Australian Government
Department of Defence

Reference: AB28940199

FOI 066/16/17 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

"I seek a copy of a Departmental file, AF84/3508 now believed to be renumbered as 2007/1008750, titled "Investigation of Unusual Aerial Sightings

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

FOI decision maker

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

Documents identified

3. I identified 1 document as matching the description of the request.

Decision

- a. I have decided to partially release 1 document in accordance with section 22(1)(a)(i) [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47E [public interest conditional exemptions-certain operations of agencies] of the FOI Act;
- b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act.

Material taken into account

4. In making my decision, I had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions in the FOI Act;
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
 - e. advice received from the RAAF Surveillance and Response Group.

Reasons for decision

Section 47E – Certain operations of agencies

5. Section 47E (d) of the FOI Act states:

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

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

6. Where access has been denied to information under section 47E(d) of the FOI Act, I considered that the material could reasonably be expected to have substantial adverse effect on the proper and efficient conduct of operations of Defence.

7. As noted above, use of the word ‘could’ in this provision requires no more than a degree of reasonableness being applied in deciding whether disclosure would cause the consequences specified. The reasonable expectation refers to material regarding details of the processes and procedures relating to aircraft.

8. I am satisfied that the expected effect of disclosing to the applicant material identified exempt under section 47E(d) could have a substantial adverse effect on the proper and efficient conduct of the operations of Defence; in that once the information was made publically available it could divulge areas of capability interest. I have decided that the specified material identified in the documents is conditionally exempt pursuant to subsection 47E(d) of the FOI Act.

Section 47E - Public Interest Consideration

9. Subsection 11A(5) of the FOI Act provides that conditionally exempt matter must be released unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest. The Guidelines state (at 6.8-6.9):

...The term ‘public interest’ is necessarily broad and non-specific because what constitutes the public interest depends on the particular facts of the matter and the context in which it is being considered...

To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The decision maker must analyse, in each case, where on balance the public interest lies, based on the particular facts of the matter at the time the decision is made.

10. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the range of factors that favour access to a document, which is set out in section 11B(3) [public interest exemptions – factors favouring accessing] of the FOI Act.

11. Subsection 11B(3) states: *factors favouring access to the document in the public interest include whether access to the document would do any of the following:*

- a. *promote the objects of this Act*
- b. *inform debate on a matter of public importance*
- c. *promote the effective oversight of public expenditure*
- d. *allow a person to access his or her own personal information.*


12. I note that disclosure may promote some of the objectives of the FOI Act, as information held by the Government is a national resource, however, the disclosure of this information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

13. While I note that the full release of the information contained in the document would be of interest to the applicant, it would not inform public debate on any matter of public importance in a meaningful way. In addition, disclosure of the information would not promote oversight of public expenditure or allow the applicant further access to his own personal information. Furthermore, disclosure of the information under section 47E would prejudice Defence's ability to obtain similar information in the future and would compromise the ability of the RAAF to complete its mandated role, namely defending Australia and its national interests from the air.

Further Information

14. A number of the documents matching the scope of this request were classified. I have declassified the versions of the documents that are approved for release.

catherine
.wallis



Digitally signed by catherine.wallis
DN: c=AU, o=GOV, ou=DoD, ou=PKI,
ou=Personnel, cn=catherine.wallis
Date: 2016.09.28 12:19:55 +10'00'

CM Wallis
GPCAPT
Accredited Decision Maker
Air Force

Sep 16