



Australian Government
Department of Defence
Defence Support and Reform Group

Ministerial and Information
Management Branch
Department of Defence

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Our reference: FOI 211/13/14



By email: 

Dear 

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your email dated 4 December 2013, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

- “ 1. *DHA 2005 Defence Housing review*
2. *The Defence Estate Strategic Planning Review – Defence*”.

2. On 6 December 2013, Defence Housing Australia accepted the transfer of “*Item 1 Defence Housing Review*”, under section 16(1)(b) [transfer of requests] of the FOI Act.

Background

3. I refer to your email, dated 29 November 2013, where you made an FOI inquiry relating to the:

“...basis of decision to vacate, remove houses on the Darwin RAAF Base. Particular information sought includes

- *increase in noise levels from the aircraft – either JSF or current combat aircraft during exercises*
- *Feasibility of soundproofing the properties in accordance with established noise pollution standards.....”*

4. By email, dated 4 December 2013, our office advised you that there were documents that may meet your requirements in relation to your inquiry and that since you sought information, as opposed to documents your request was not registered as a valid request.

5. On 9 December 2014, I wrote to advise you of the preliminary assessment of charges associated with your request. The statutory processing time for the request was suspended on this date. Your letter agreeing to pay charges for the processing was received in this office on 17 December 2013. As such, the statutory processing time for your request expires on 11 January 2014.

6. On 17 December 2013, you kindly agreed to a 30-day extension to process your request, in accordance with section 15AA [extension of time with agreement] of the FOI Act. Therefore, the due date was extended to 10 February 2014.

7. The purpose of this letter is to provide you with the decision relating to the document that is the subject of your request.

FOI decision maker

8. Mr Laurie Curry, Estate Support Manager -Victoria and Tasmania, Defence Support and Reform Group, was the accredited decision maker, under the FOI Act, in relation to your request.

Documents identified

9. Mr Curry identified one document as matching the description of your request, which is at Enclosure 1.

10. Mr Curry noted the discrepancy in the title of the document requested. The correct title of the document is: "Defence Estate Strategic Review – Darwin".

Decision

11. Mr Curry has decided to fully release the document identified in response to your request, Mr Curry found material in the document that did not specifically relate to the terms of the request, taking into consideration your previous inquiry as referred to in paragraph 3 above. Therefore this particular material was removed in accordance with subsection 22(1) of the FOI Act on the grounds that the material was irrelevant.

Material taken into account

12. In making his decision Mr Curry had regard to:

- a. the terms of the request;
- b. the content of the identified document 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);
- e. the Principles on open public sector information issued by the Information Commissioner; and
- f. advice provided by Infrastructure Division.

Reasons for decision

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

13. Section 22(1)(a)(ii) of the FOI Act states the following:

“(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."*

14. After examination of the document and taking into account your original inquiry, specifically the "...basis of decision to vacate, remove houses on the Darwin RAAF Base", Mr Curry found that the document contained a considerable amount of information that was irrelevant to the original request for access.

15. Specifically, Mr Curry removed pages 9, 15 to 18, 20 to 23, 26 to 29, 34 to 71, 73 to 106 and made further redactions on the remaining pages, as this information did not relate to RAAF Base Darwin. Mr Curry therefore decided to remove material regarded as irrelevant to the request for access.

16. Mr Curry had regard to the specific nature of your request and determined that releasing the information would reasonably be regarded as irrelevant to the request. Mr Curry found it reasonably practicable to prepare an edited copy of the document as it is not apparent (from the request or consultation with you) that you would decline access to an edited copy.

17. Mr Curry took into account the guidelines issued by the Australian Information Commissioner, specifically paragraph 5.3 which states:

"a decision maker should consider whether it is practicable to delete exempt material and provide the balance to the applicant. If it is practicable to delete the exempt material and retain a copy of a meaningful non-exempt edited copy to provide to the applicant, an agency or minister must do so".

18. In forming this decision, Mr Curry also considered the objects of the FOI Act. Section 3(4) states:

"The parliament also intends that function 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 cost available."

19. In Mr Curry's view, taking into account the original intent of your inquiries would meet your requirements at the lowest reasonable cost, therefore promoting the objects of the FOI Act.

Payment of Charges

20. In our letter, dated 9 December 2013, after deducting the free decision making time, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request on 17 December 2013, an invoice for the preliminary assessment deposit of [REDACTED] was subsequently sent directly from Defence Finance.

21. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. The remaining balance is the difference between actual charges and the deposit you have already paid. In this instance, I have decided not to impose the FOI processing charges for the remaining balance [REDACTED] as the administrative cost of processing the payment would outweigh the collectable charge.

Rights of review

22. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, "Freedom of Information – Your Review Rights" is at Enclosure 2.

FOI Disclosure Log

23. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence will publish the identified document relating to this request within five working days of receipt by you. Defence will also publish this decision notice with privacy deletions.

Further advice

24. The FOI Act may be accessed online at: <http://www.comlaw.gov.au/Details/C2011C00803> .

25. All departmental action is now complete. Should you have any questions, please contact this office.

Yours sincerely



Sally Philp
Assistant Director
Freedom of Information

24 January 2014

Enclosures:

1. Document in the form for release
2. Fact Sheet: Freedom of Information – Your Review Rights