



Australian Government
Department of Defence
Defence Support and Reform Group

Ministerial and Information
Management Branch
Department of Defence

CP1-6-001
PO Box 7910
CANBERRA BC ACT 2610
Tel: 02 626 62200
Fax: 02 626 62112
FOI@defence.gov.au

Our reference: FOI 263/13/14

[REDACTED]

By email: [REDACTED]

1. I refer to your Freedom of Information (FOI) request, dated 3 February 2014, in which you sought access to:

1. *In 1996 at the Point Cook RAAF Base the training flight circuit was changed from a left hand circuit to a right circuit. Please provide documents requesting the Commander of the Point Cook RAAF Base to sign off on the flight circuit change.*
2. *In a letter sent to Mr. Ray Wright on the 4th April, 1996. From Mr. Greg Aplin of the Wyndham Council. In the letter it indicates of the flight circuit was to change from a left to a right hand circuit. Also there was to be an agreement formulised. This agreement will require all operation to or from a seaward direction where possible and circuits will be "right hand off specified runways to avoid sensitive area. Please provide this agreement. Also in the letter it indicate "Fly neighbourly" policy please provide a copy of this policy. Enclosing the 4th April, 1996 letter.*
3. *In the 1998 GHD Noise Report for the Point Cook RAAF Base in one of the recommendation "consideration should be given to exchange the civil circuit with RAAF Museum circuit". Please provide correspondents why this recommendation was not acted on. Enclosing 1998 GHD Noise Report recommendation.*
4. *Please provide information given to the experts so to produce the 2007 ANEF for the Point Cook Airfield. Also the wind direction data the experts used to assist them to produce 2007 ANEF.*
5. *Please provide information given to the experts so to produce the Draft 2019 ANEF Point Cook Airfield. Also the wind direction data the experts used to assist them to produce the Draft 2019 ANEF.*
6. *In 2012 a noise survey was carried out, noise monitor were placed around the Point Cook airfield and neighbouring land. Please provide the instruction given to the company carrying out the work, the data collected and the reason why my offer to pay for more monitoring was not taken up."*

Revised scope

2. By email dated 17 February 2014, you were advised that your request in its original form would attract a practical refusal under section 24AA of the FOI Act.

3. On 24 February 2014, you provided the following revised scope:
- “1. *Point Cook friendly neighbourly policy.*
 2. *In the 1998 GHD Noise Report the recommendation to exchange the civil circuit with RAAF Museum Circuit. Please provide the reason why it was not acted on and is there a connection with the Wyndham Council leaving it out in the Council minutes.*
 3. *The (draft) 2019 ANEF map for RAAF William- Point Cook.*
 4. *The (draft) 2019 ANEF Integrated Noise Model Input Data Report.*
 5. *The ANEF map and supporting maps and data developed in 2007.”*

Background

4. On 14 March 2014, our office informed you that a decision maker had determined that there was a requirement to consult with third parties under section 27 of the FOI Act, before finalising the decision. As such, in accordance with section 15 of the FOI Act, the statutory timeframe was extended to 21 April 2014. As this date is a public holiday, the due date was extended to **22 April 2014**.
5. The purpose of this letter is to provide you with the decision relating to the documents that are the subject of your request.

FOI decision makers

6. Group Captain Catherine Wallis, Director Coordination - Air Force, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on items 1 and 2 of your FOI request. Mrs Kate Duncan, Chief of Staff to Deputy Secretary Defence Support & Reform, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on items 3-5 of your FOI request.

Reasons for Decision - Items 1 and 2

Documents identified

7. Group Captain Wallis was unable to identify documents matching the description of items 1 and 2 of your request.
8. Group Captain Wallis decided to refuse access to the requested documents under the following sections of the FOI Act:
- a. Item 1: Section 24A(1)(b)(ii) [documents do not exist].
 - b. Item 2: Section 24 of the FOI Act [power to refuse request-diversion of resources etc].

Material taken into account

9. In making her decision Group Captain Wallis had regard to:
- a. the terms of the request;
 - b. relevant provisions in the FOI Act;
 - c. the *guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines)*;
 - d. the Principles on open public sector information issued by the Information Commissioner; and
 - e. advice from relevant officers of the department.

Reasons for decision

10. **Item 1.** Senior Air Force aircrew confirmed there is no specific “fly neighbourly” policy for Point Cook (PT Cook). The PT Cook entry in the Enroute Supplement Australia (civilian publication used by aircrew world wide) only nominates circuit direction for specific runways and a restriction on times of the day for circuit training. Individual local operators may have their own fly neighbourly policy but Air Force does not have visibility of these if they exist. Additionally, internet, intranet and objective searches were conducted using the below keywords (and combinations), with nil documents identified:

- a. PT Cook,
- b. fly neighbourly,
- c. ERSA,
- d. Enroute Supplement Australia,
- e. ANEF, and
- f. aerodrome information.

Outcome of searches

11. Despite thorough and diligent searches as indicated above, no documents matching the description of the request could be located. Accordingly, Group Captain Wallis is satisfied that all reasonable steps have been taken to find the documents requested by you and that no document could be found.

Reasons for decision – item 2

12. Section 24 of the FOI Act provides that:

(1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:

- (a) must undertake a request consultation process (see section 24AB); and*
- (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists—the agency or Minister may refuse to give access to the document in accordance with the request.*

13. Section 24AA of the FOI Act provides that:

(1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:

- (a) the work involved in processing the request:*
 - (i) in the case of an agency – would substantially and unreasonably divert the resources of the agency from its other operations; or ...*
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).*

14. Due to the age of the documents relating to item 2 of the request, there is a possibility that any relevant material may have not been filed or archived. Group Captain Wallis was advised by 21 SQN that the majority of pre-objective documentation is yet to be scanned and loaded onto the system. According to 21SQN, there are over 1000 documents to be scanned, dating back prior to 1998. The documents have been randomly placed in archival folders, they are not in chronological or subject order.

15. Accordingly, the relevant area in Air Force would be required to search through potentially thousands of pages of documents to identify the documents matching item 2 of the request. At this stage, the relevant area currently lacks the staff to perform this task due to the upcoming Centenary of Military Aviation air show. As any relevant documents would be held at Point Cook this is not a task that could be undertaken by any other areas in Air Force. Therefore, the processing of your request would unreasonably divert the relevant area within Air Force from the functioning of their core business.

16. Taking into account the above, Group Captain Wallis was satisfied that Defence has met this requirement.

17. Paragraph 24AA(3) of the FOI Act provides that:

(3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:

- (a) any reasons that the applicant gives for requesting access; or*
- (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or*
- (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.*

18. Group Captain Wallis did not have regard to any of the factors listed in subsection 24AA(3) of the FOI Act.

19. Having considered all of the above, Group Captain Wallis is satisfied that a practical refusal reason exists in relation to this request and, on this basis, she decided to refuse, under section 24 of the FOI Act, the request.

Reasons for Decision – Items 3, 4 and 5

Identified documents

20. Mrs Duncan identified three documents that fall within the scope of your request.

Decision

21. Upon inspecting the documents, Mrs Duncan decided to release all three documents in full.

Material taken into account

22. In making her decision Mrs Duncan had regard to:

- a. the terms of the request;
- b. the content of the documents in issue;
- c. relevant provisions in the FOI Act;
- d. the *Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act*; and
- e. advice received from consulted third parties.

Additional contextual information

23. In relation to item 4, Infrastructure Division advised that 'While the data contained in the document reflects the information supplied from stakeholders at the time, it does not necessarily reflect any changes since 2008. The project was discontinued by Defence and as such the document was not finalised.' In addition, Air Force advised in relation to Appendix

C Figure 11 that 'the draft does not provide an indication of how often the departure tracts will be used. As there are no permanently based aircraft at Point Cook some tracts will rarely be used.'

24. In relation to item 5, one of the third parties noted that "the noise comparison / scenario noise contour maps produced in the report (ref A06092AR001Rev0) strictly speaking are not ANEF maps as they were produced to understand possible impacts of future scenarios. The contour maps were not formally endorsed by ASA and therefore strictly speaking are not ANEF maps".

Payment of Charges

25. In our letter, dated 27 February 2014, 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 28 January 2014. This initial agreement included a deposit totalling [REDACTED].

26. Upon completion of your request, after deducting the free decision making time, the actual amount for processing exceeded the original estimate provided to you. However, as explained in the above mentioned letter the amount payable can only be more than the preliminary assessment if the decision is to release all of the documents requested in full. Accordingly, you are only required to pay the outstanding amount of [REDACTED]. A copy of the final payment authorisation form is at Enclosure 1.

Further information

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

28. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Phillip Connelly
Case Officer
Freedom of Information
22 April 2014

Enclosures:

1. Payment authorisation form – final charges.