

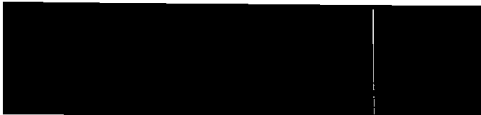


**Australian Government**

**Department of Defence**

Office of the Chief Operating Officer

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By email: 

Dear 

1. I refer to your emailed letter, dated 17 May 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to a copy of:

*"...the consultancy report supplied by Boeing Defence entitled 'Risk Assessment for Public Display of F-111 Aircraft and Significant F-111 Components Phase 1' contact number 443986 which commenced 19/10/2011."*

**Revised scope**

2. By email, dated 13 June 2012, you revised the scope of your request to:

*Specific parts of the consultancy report, entitled "Risk Assessment for Public Display of F-111 Aircraft and Significant F-111 Components Phase 1, as follows:*

- 1) *Introduction*
- 2) *Chapter 4 – Hazards (including attachments)*
- 3) *Chapter 5 – Risks (including attachments)*
- 4) *Chapter 6 – Risk treatments (including attachments)*
- 5) *Conclusion*
- 6) *Annex E*

**FOI Statutory deadline**

3. Your request was registered, on receipt of your request, on 17 May 2012. The FOI processing time was suspended on 22 May 2012 when you were advised of the preliminary assessment of FOI charges associated with your request. Following receipt of your revised request, you were provided with a revised preliminary assessment of FOI charges on 18 June 2012. You agreed to pay the charges associated with your request on 24 July 2012, paying the estimated amount in full. The FOI processing time resumed on this date.

4. In an email, dated 10 August 2012, you were advised of the requirement to consult a third party in respect to the identified document. You were also advised that, in accordance with subsection 15(6) of the FOI Act, the FOI statutory deadline was extended by 30 days and would expire on 17 September 2012.

5. Finally, on 13 September 2012, in accordance with section 15AA of the FOI Act, I sought a further extension to the statutory deadline. You agreed to a four day extension, which extended the deadline to 21 September 2012.

6. The purpose of this letter is to provide you with the decision relating to your request.

#### **FOI decision maker**

7. Mr Philip Baxter, Director, Strategic Analysis & Benchmarking Branch, Defence Materiel Organisation is the accredited decision maker, under the FOI Act, in relation to your request.

#### **Documents identified**

8. Your request sought access to sections of a document prepared under contract to Defence by Boeing Defence Australia. The report was finalised and submitted to Defence in late March 2012.

#### **Decision**

9. Mr Baxter decided to release the requested sections of the report with deletions, made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is exempt under section 47F of the FOI Act. Some material was also removed which was considered irrelevant to your request.

10. A schedule of documents outlining the decision in respect to each of the requested sections of the document is at Enclosure 1.

#### **Material taken into account**

11. In making his decision Mr Baxter had regard to:

- The terms of the request;
- The content of the documents in issue;
- Response from third parties consulted under the FOI Act;
- Advice from Defence officers with responsibility for matters relating to the document;
- The relevant provisions of the FOI Act; and
- The Australian Information Commissioner's guidelines on FOI.

## Section 22

12. Section 22(1)(a)(ii) of the FOI Act allows a decision maker to remove irrelevant material from a document. Mr Baxter found that Item 1 in the attached schedule contained material which is irrelevant to your request as it does not relate to the particular sections of the document you have requested.

## Section 47F

13. Section 47F of the FOI Act conditionally exempts a document if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

### *Personal information*

14. Personal information is defined in section 4 of the FOI Act as:

*Information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.*

15. For the section of the document where section 47F is claimed, Mr Baxter was satisfied that the information clearly meets the essential tests of personal information, including that they:

- a) identify, or could identify, a person;
- b) say something about the person;
- c) may be in the form of an opinion;
- d) may be true or untrue, and;
- e) relate to a natural person.

### *Disclosure unreasonable*

16. Having identified that personal information exists, Mr Baxter is required by subsection 47F(2) of the FOI Act to find that disclosure would be 'unreasonable'. Mr Baxter considered a range of factors, namely those in subsection 47F(2) of the FOI Act and the Information Commissioner's guidelines (section 6.130) including;

- a) the extent to which the information is already a matter of public knowledge;
- b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with;
- c) the availability of the information from publicly accessible sources;
- d) the likelihood that release of the documents would cause stress to a third party; and
- e) the public purpose achieved through release.

17. Having considered the factors above and the responses from the third party who were consulted, Mr Baxter found that disclosure of the material identified as personal information in Item 1 in the attached schedule would be an unreasonable disclosure of that information.

### *Public interest test*

18. As section 47F of the FOI Act is a conditional exemption, Mr Baxter was required to apply a public interest test in order to determine the extent to which release may be contrary to the public interest. In assessing whether disclosure is, on balance, contrary to the public interest, Mr Baxter took into account the following public interest factors in favour of and against disclosure:

#### Factors in favour of disclosure

- a) promoting the objects of the FOI Act (refer section 3 and section 3A);
- b) informing debate on a matter of public importance;
- c) promoting effective oversight of public expenditure; and
- d) allowing a person to access his or her own personal information.

#### Factors against disclosure

- a) interest in preserving the efficient and proper functioning of Government;
- b) interest in protecting the integrity of the decision making process by separating the final decision making policy from the opinions and advice of the officials who contributed to the consideration; and
- c) the deleted material, which involves business information gained from separate business within domestic industry, could reasonably be expected to prejudice the future supply of information to the Commonwealth to enable it to make informed decisions.

19. Against those criteria, Mr Baxter noted that disclosure may promote some objects of the FOI Act, as information held by the Government is a national resource, however, the disclosure of personal information of other people would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities. Further, Mr Baxter found that the disclosure of personal information would not enhance or inform public debate on any matter of public importance in any meaningful way.

20. Accordingly, Mr Baxter decided that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents.

21. In coming to his decision, Mr Baxter also had regard to subsection 11B(4) of the FOI Act, which lists the factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. None of the factors listed had any bearing on Mr Baxter's decision.

### **Payment of Charges**

22. In my email, dated 18 June 2012, after deducting the free decision making time, the department provided a revised estimated cost for the processing of your request of [REDACTED]. You agreed to pay the charges for the administration of your request and paid the estimated amount in full on 24 July 2012.

23. Upon completion of your request, and after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. However, as advised in my letter, dated 22 May 2012, the amount payable can only be more than the preliminary assessment if the decision is to release all of the requested documents in full.

24. Accordingly, there is no outstanding charge payable in respect to this request. Copies of the documents if the form approved for release are at Enclosure 2.

#### **Rights of review**

25. The FOI Act provides for rights of review of decisions. A copy of the fact sheet "Freedom of Information – Your Review Rights" setting out your rights of review is at Enclosure 3.

#### **FOI Disclosure Log**

26. 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 publishes identified documents relating to requests within two working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions. As such, publication will occur on Tuesday 25 September 2012.

#### **Further advice**

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

28. This completes all action on this request. Should you have any questions in regard to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can also be contacted on the details at the top of this letter.

Yours sincerely



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

21 September 2012

#### **Enclosures:**

1. Schedule of documents
2. Documents in form approved for release
3. Fact Sheet: Freedom of Information – Your Review Rights