



Reference: FBO550276

FOI 451/18/19 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):

“The Department of Defence is an official Sponsor of Avalon 2019, which is organised by Aerospace Australia Limited, a registered charity.

Please provide a copy of the following:

Item 1 - The budget document that specifies the amount provided by the Defence Department in dollars for the financial years 2017-18 and 2018-19 to Avalon 2019; and

Item 2 - The budget document that specifies the cost of services or any other non-monetary support provided by the Defence Department to Aerospace Australia for the financial years 2017-18 and 2018-19 relating to Avalon 2019.”

FOI decision maker

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

Documents identified

3. I identified one document as matching the description of the request.
4. I have added an FOI reference number to the document.

Decision

5. I have decided to partially release the document in accordance with Section 22 [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 47F [Public interest conditional exemptions – personal privacy] and/or 47G [Public interest conditional exemptions – business] of the FOI Act.

Material taken into account

6. 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);
- e. advice received from Air Force Headquarters; and
- f. advice received from Aerospace Australia Limited (AAL).

Reasons for decision

Section 47F – Public interest conditional exemptions – personal privacy

7. I identified personal information of individuals other than the applicant contained in the document, such as names and other identifying information.

8. The Guidelines note that *‘the personal privacy exemption is designed to prevent the ‘unreasonable’ invasion of third parties’ privacy’*.

9. In accordance with Section 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, I had regard to:

- a. the extent to which the information is well known;
- b. 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;
- c. the availability of the information from publicly accessible sources; and
- d. the effect of the release of the personal information could reasonably have on the third party.

10. I found that the:

- a. specific personal information listed is not well known;
- b. individuals whose personal information is contained in the documents are not widely known to be involved with the matters dealt with in the documents; and
- c. information is not readily available for publicly available sources.

11. The release of names and other identifying information could reasonably be expected to cause harm to individuals’ privacy. Taking into account the above factors, I consider that the release of the personal information of individuals other than the applicant would be an unreasonable disclosure of personal information and is conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations under section 47F

12. Section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations are set out below.

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

14. Disclosure of the specific personal information would promote some of the objects of the FOI Act as information held by the Government is a national resource and it would allow scrutiny or discussion of government activities.

15. While release of the specific information may be of some interest to the applicant, there is a strong public interest in protecting the privacy of the individuals whose personal details appear in the document. Additionally, disclosure of the specific information would not promote oversight of public expenditure nor would it allow the applicant access to their own personal information.

16. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the material in question. I therefore decided that it would be contrary to the public interest to release the specific information considered exempt under section 47F of the FOI Act.

Section 47G – Public interest conditional exemptions – business

17. Section 47G(1)(a) of the FOI Act conditionally exempts a document if its disclosure under the Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking in respect of its lawful business, commercial or financial affairs.

18. Upon examination of the document I identified conditionally exempt commercially sensitive information, the disclosure of which could adversely affect AAL's commercial or financial affairs. Specifically, I identified information that could be used to determine a commercial position in relation to future contractual negotiations and arrangements.

19. I note that the 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.

20. The Guidelines state that *'The operation of the business exemption depends on the effect of disclosure rather than the precise nature of the information itself'*. In the context of the document identified, release of the information identified would be unreasonable due to its commercial application. Notwithstanding that AAL is a 'not for profit' organisation, I am satisfied that the effect of disclosing the identified material would have an adverse effect on AAL.

21. Taking these factors into account, I consider that the release of the information would be an unreasonable disclosure of business information and is conditionally exempt under section 47G of the FOI Act.

Public interest considerations under section 47G

22. As noted above, section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations in relation to the section 47G conditional exemptions are set out below.

23. I have considered the Guidelines, together with the factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act.

24. Again, I note that disclosure may promote some of the objects of the FOI Act as information held by the Government is a national resource and it would allow scrutiny or discussion of government activities.

25. Release of the business information could again be of some interest to the applicant, however there is a strong public interest in protecting the viability of an entity by not releasing information that supports its competitive advantage.

26. In coming to the above decision I also considered section 11B(4) of the FOI Act. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the material in question. I therefore decided that it would be contrary to the public interest to release the specific information considered exempt under section 47G of the FOI Act.

Third party consultation

27. I decided to consult with AAL regarding its information which was contained in the document. In response to this consultation, AAL objected to the release of its business and personal information. I do not agree with all of AAL's objections.

28. The Department is required to advise AAL of my decision. Documents will be provided when all review rights have been exercised.

Further Information

29. The document matching the scope of this request contained a dissemination limiting marker. As the documents are approved for public release, the marker has been struck through.

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Frances McNamara
Accredited Decision Maker
Defence Finance Group

12 August 2019