



**Australian Government**  
**Department of Defence**

BS26130864

**DEFENCE FOI 257/21/22 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:

*“...document(s) pertaining to the sale of unused Army Reserves land in 2003.*

*The land is addressed at 140A Hawthorne Parade Haberfield NSW 2145.*

*The documents I’m interested in will detail:*

*-The size of each of the 21 lots*

*-The sales price of each lot*

*I do not need any personal information of the people who purchased the land.*

*The sale did not go through, but I still want to know how much each of the 21 lots sold for in May of 2003.”*

**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 twelve documents as matching the description of the request.

4. The decision in relation to each document is detailed in a schedule of documents.

5. I have added an FOI reference number and Item/Serial number to each of the documents, which corresponds with the schedule.

**Exclusions**

6. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

**Decision**

7. I have decided to:

- a. release six documents in full for Item 1 of the request, the size of each lot;
- b. partially release six documents for Item 2 of the request, the sales price of each lot, 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 47D [public interest conditional

exemptions-documents affecting financial or property interests of the Commonwealth] of the FOI Act; and

- c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

### **Material taken into account**

- 8. 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. legal advice concerning case law related to disclosure of real property transactions provided in confidence within a contract of sale.

### **Reasons for decision**

#### **Section 47D - Financial or property interests of the Commonwealth**

9. Upon examination of the documents, I identified information, where disclosure would have a substantial adverse effect on the expected financial returns obtained at the upcoming public auction by Defence of 17 residential lots at Haberfield (the Project). Disclosure would prejudice the revenue-generating activities of Defence where the objective is to maximise the return from divestment of surplus Commonwealth land to the market in accordance with the Commonwealth Property Disposals Policy.

10. Defence intends to divest of the residential lots via conducting a public auction. Disclosure of the 2003 sales price of each lot could substantially damage Defence's financial interests by setting an artificially low bid mark that compromises competitive bidding during the auction.

11. Defence intends to use the proceeds of sale for reinvesting into completing the subdivision works and providing the new neighbourhood with a public park all in accordance with local Council's planning and development conditions. A lower than expected yield at auction could lead to detrimental effects and disadvantageous outcomes for the Project.

#### **Section 47D - Public interest conditional exemptions**

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

- 13. The factors in favour of disclosing the information that I consider to be relevant are:
  - a. *promotes the objects of the FOI Act, as information held by the Government is a national resource;*
  - b. *informing debate on a matter of public importance; and*
  - c. *promotes effective oversight of public expenditure.*

14. I've redacted the documents disclosing the 2003 sales price of each lot because, on balance, it is contrary to the public interest to do so and thereby avoid substantial adverse effects on the financial interests of Defence.

15. The factors favouring access would promote the objects of the FOI Act, inform debate on a matter of public importance and promote effective oversight of public expenditure. For these reasons the documents are partially redacted because the released content in each document is relevant to these factors.
16. None of the irrelevant factors have influenced the decision to redact documents.

**BruceBennett2** Digitally signed by  
BruceBennett2  
Date: 2022.01.27 10:23:13 +11'00'

Bruce Bennett  
Accredited Decision Maker  
Security and Estate Group