



Australian Government
Department of Defence

DEFENCE FOI 422/21/22 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:

“...documents (letters, emails, memos) relating to informing the residents of the contamination between 2000 and 2003.

On learning of the contamination it is expected that Defence informed both the Council (Ashfield Council at the time) and residents of Hawthorne Parade, Haberfield.”

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 three documents as matching the description of the request.
4. I have added an FOI reference number and item/serial number to each of the documents.

Exclusions

5. 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

6. I have decided to:
 - a. release one document in full;
 - b. partially release two documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act; and
 - c. remove irrelevant material under section 22 of the FOI Act.

Material taken into account

7. In making my decision, I had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents in issue; and
 - c. relevant provisions in the FOI Act; and
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for decision

Section 47F - Personal privacy

8. Upon examination of the document, I identified information, specifically the names and information of individuals other than the applicant.

9. In assessing whether the disclosure of personal information would be unreasonable, I considered the following factors:

- 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;
- d. the effect the release of the personal information could reasonably have on the third party.

I found that the:

- a. specific personal information is not well known;
- b. individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the documents;
- c. information is not readily available from publicly accessible sources; and
- d. the release of the names and the personal information of individuals identified in the documents could reasonably be expected to cause harm to their privacy.

10. 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 conditionally exempt under section 47F of the FOI Act. My public interest consideration are set out below.

Sections 47F - Public interest considerations

11. Section 11A(5) of the FOI Act provides that, if a document is conditionally exempt, it must be disclosed unless, in the circumstances access to the document at that time would, on balance, be contrary to the public interest. There is a public interest in ensuring that Defence undertakes its functions in a transparent and proper manner. There is also a public interest in appropriately maintaining the confidentiality of some material contained in its documents.

12. In assessing whether disclosure is on balance contrary to the public interest, I considered the guidelines together with the range of factors set out in section 11B(3) of the FOI Act, which favour granting access to:

- a. *promote the objects of this Act (including all the matters set out in sections 3 and 3A);*
- b. *inform debate on a matter of public importance;*
- c. *promote effective oversight of public expenditure;*
- d. *allow a person to access his or her own personal information.*

13. I note that disclosure of the requested documents may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However,

disclosure of this request's specific conditionally exempt material would not increase public participation in the Defence process, nor would it beneficially increase scrutiny or discussion of Defence activities and expenditure.

14. I accept there is strong public interest in maintaining the confidentiality of material being investigated and the personal information of individuals identified in documents. Our also society expects that Defence manages investigations, fact finds and court orders in a sensitive way.

15. Paragraph 6.22 of the guidelines specifies a non- exhaustive list of public interest factors against disclosure. While I consider the release of the material removed under section 47F may be of some interest to the applicant, disclosure of the conditionally exempt material I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice or harm:

- a. the protection of an individual's right to privacy;
- b. the interests of an individual or group of individuals;
- c. an agency's ability to obtain confidential information;
- d. an agency's ability to obtain similar information in the future; and
- e. the management function of the agency.

16. Factors listed as 'irrelevant' in section 11B(4) of the FOI Act were not taken into consideration.

17. After weighing all of the above, I consider that on balance the public interest factors against disclosure outweigh the factors for disclosure of the conditionally exempt material in the document. Accordingly, I have decided to exempt specific material under section 47F of the FOI Act.

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Chris Battisson
 Accredited Decision Maker
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