



**BP25921253**

**DEFENCE FOI 531/21/22 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:

*“..... access to the following information:*

- *82WG Flying Order 3-93 - 82WG return to Flying Following Runway Departure Incident of 16 Dec 2020*
- *Brief for ACAUST – resumption of Flight operations for A44 F/A-18F and A46 EA-18G, of 18 December 2020.”*

**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 two 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 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. partially release two documents 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] 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).

### **Reasons for decision**

#### **Section 47F - Personal privacy**

9. Upon examination of the document I identified information, specifically names, ranks and phone numbers of Defence personnel who were directly involved in the conduct of the investigation. When assessing whether the disclosure of personal information is 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.
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 associated with the matters dealt with in the documents
  - c. information is not readily available from publicly accessible sources.

11. The release of the names, ranks and phone numbers of individuals identified in the documents could reasonably be expected to cause harm to their privacy, noting their direct involvement in the management of the incident. 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(1) of the FOI Act. My public interest considerations are listed below.

## Sections 47F - Public interest considerations

12. 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 documents at the time would, on balance, be contrary to the public interest’.

13. In assessing whether disclosure is on balance, contrary to the public interest, I considered the Guidelines together with a range of factors set out in section 11B(3) of the FOI Act, which favours access to a document 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.*

14. 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 the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

15. While I consider that release of the material removed under section 47F of the FOI Act may be of some interest to the applicant, disclosure of the conditionally exempt material would not inform public debate on any matter of public importance in any meaningful way. Additionally, I do not consider that disclosure of the material would promote oversight of public expenditure. Furthermore, the public interest is better served in protecting the privacy of individuals whose personal details are contained within these documents from release to the public at large.

16. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors 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.*

17. It is for these reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F of the FOI Act.

18. In coming to the above decision I considered factors outlined in section 11B(4) [irrelevant factors] of the FOI Act. None of these factors were taken into account in making my decision.

**Further Information**

19. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through.



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**PR Davies, CSC**

Group Captain

Accredited Decision Maker

Royal Australian Air Force