



DEFENCE FOI 328/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 9 October 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

“... the ADF course plan, syllabus or training advisory for the HMAS Cerberus “survival at sea course” as it was undertaken in June to August 2019 including the practical assessment phase on day 3.”

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 have identified ten (10) documents as falling within the scope of the request.
4. The decision in relation to each document is detailed in the schedule of documents.

Decision

5. I have decided to:
 - a. release eight (8) documents in full; and
 - b. partially release two (2) 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

6. In making my decision, I have had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions of 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 – Public interest conditional exemptions - personal privacy

7. Section 47F(1) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

8. The FOI Act shares the same definition of ‘personal information’ as the *Privacy Act 1988* (Cth). The Guidelines provide that:

6.128 Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

(a) whether the information or opinion is true or not; and

(b) whether the information or opinion is recorded in a material form or not.

9. The documents for release contain the name of a third party and photographic images which disclose the faces of multiple third party individuals. I am satisfied that this meets the definition of personal information.
10. In my assessment of whether the disclosure of personal information is unreasonable, I considered the following factors in accordance with section 47F(2):
- 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 the release of the personal information could reasonably have on the third party.
11. I found that the specific personal information listed along with the identities of those appearing in the photographic images are not well known, that individuals whose personal information is contained in the document is not widely known to be associated with the matters dealt with in the document, and that the information is not readily available from publicly accessible sources.
12. In light of these factors, I am satisfied that there are no factors that outweigh the right to privacy of the individuals identified within the document, and I consider that disclosure of this information would be unreasonable.
13. Accordingly, I am satisfied that the information is conditionally exempt under section 47F of the FOI Act.

Public interest considerations - sections 47F

14. Section 11A(5) of the FOI Act states:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

15. I have considered the factors favouring disclosure as set out in section 11B(3) [factors favouring access] of the FOI Act. The relevant factors being whether access to the document would:

- (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.*

16. In my view, disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).
17. Additionally, I do not consider that the disclosure of third party names would inform debate on a matter of public importance, promote effective oversight of public expenditure or allow the applicant to access their own personal information.
18. 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:
 - the protection of an individual's right to privacy; and
 - the interests of an individual or a group of individuals.
19. I have not taken any of the factors listed in section 11B(4) [irrelevant factors] of the FOI Act into account when making this decision.
20. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure, and that, on balance, it is against the public interest to release the information to you. Accordingly, I find that the information is exempt under sections 47F of the FOI Act.

Catherine

Catherine

Digitally signed by
Catherine
Date: 2023.11.06
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Accredited Decision Maker

Navy Group

Department of Defence