



**DEFENCE FOI 369/20/21 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:

*“All documents and emails relating to the procurement of accommodation for the Army at Albury between April 2020 and present, including (but not limited to) correspondence with AOT, with Mantra Mackay and any other property in Albury, and correspondence with NSW Police which relates to this topic. Commercially sensitive information such as prices can be redacted.”*

**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 twenty four 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 considered irrelevant and excluded from this request under section 22. Defence has only considered final versions of documents.

**Decision**

7. I have decided to:
  - a. release eleven documents in full with irrelevant material as referred to in the scope of the request removed in accordance with section 22(1)(b)(ii) of the FOI Act.
  - b. partially release thirteen documents in accordance on the grounds that the deleted material is considered exempt under section 47G [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 scope;

- 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. advice from Headquarters Joint Operations Command.

### **Reasons for decision**

#### **Section 47G – Business Affairs**

9. Upon examination of the document, I identified the business information of a third party that if released, would, or could reasonably be expected to adversely affect its business or professional affairs.

9. Section 47G(1) of the FOI Act states:

*(1) A document is conditionally exempt if its disclosure under this 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 a case in which the disclosure of the information:*

*(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.*

10. 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.

11. My public interest considerations are set out below.

#### **Sections 47G – Public interest considerations**

12. 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) [public interest exemptions-factors favouring access] of the FOI Act, which favours access to a document:

- (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 information may promote some of the objects of the FOI Act. 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.


14. There is strong public interest in not releasing information that would unreasonably affect a business. Given Defence's strong links with industry, it is imperative that Defence be able to collect and retain sensitive commercial information without fear that the material would be released without authorisation.

15. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents. Therefore, I have decided that it would be contrary to the public interest to release the information considered exempt under section 47G of the FOI Act.

**Further information**

16. 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.

**Veronica.Woods**

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Accredited Decision Maker  
Headquarters Joint Operations Command