



Australian Government
Department of Defence

Reference: BI6061565

FOI 124/19/20 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:

“... in 2007, the RAN conducted a review of battle honour and campaign awards which included an investigation regarding the Battle of Sydney Harbour which occurred on 31 May 1942 and 1 June 1942. I understand the investigation was undertaken via the Director of History in the Sea Power Centre.

The Chief of Navy subsequently did not agree an award should be made for the Battle.

As I am completing a research project of the particular RAN vessels that fought in the Battle, I would like to inspect the:

Item 1: investigation report and submission to the Chief of Navy including any associated correspondence to and from him with regard to this matter, and any document setting out his consideration of the matter and his decision; and

Item 2: as part of the investigation and submission, I understand consideration was given and action taken to propose awards or medals. Details of those would be of interest.

I do not require personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request. In addition, I exclude duplicates of documents, and only require final versions of documents.”

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.

Decision

4. I have decided to:

- a. release one document in full;
- b. deny access to one document under section 47F [public interest conditional exemptions-deliberative processes] 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

5. 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; 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**

6. Upon examination of the document, I identified information, specifically the names, and personal information of individuals other than the applicant. As a person's identity could be apparent or reasonably ascertainable from the identified information, I have determined that it constitutes personal information.

7. 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 documents;
 - 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 individual.
8. Against the criteria, I found:
- a. the specific personal information listed is not well known;
 - b. the individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt in the documents; and
 - c. the information is not readily available from publicly accessible sources.

9. The release of personal information of individuals could reasonably be expected to cause harm to their privacy. Taking into account the above factors, I consider that the release of information of individuals, other than the applicant, would be an unreasonable disclosure of personal information and is conditionally exempt under section 47F of the FOI Act.

10. Section 11A(5) 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.

11. My public interest considerations are detailed below.

47F - Public interest considerations

12. I found that the identified documents are conditionally exempt under section 47F of the FOI Act.

13. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors being that disclosure may promote some of the objectives of the FOI Act, as information held by the government is a national resource.

14. While I note that the release of the information being withheld may be of interest to the applicant, it would not inform public debate on a matter of public importance in any meaningful way.

15. 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:


- a. the protection of an individual's right to privacy; and
- b. the interests of an individual or a group of individuals.

16. I considered that the above factors weighed heavily against disclosure at this time. Disclosure of this information would not increase public participation in government processes nor would it, in my view, increase scrutiny or discussion of government activities.

17. Releasing the names and personal information of individuals, could reasonably be expected to cause harm to their privacy. I consider that the public interest is better served in this case by maintaining the personal privacy of the individuals from public disclosure.

18. It is for those 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.

19. None of the factors listed in section 11B(4) [*Irrelevant factors*] were taken into account when making my decision.

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MJ McIntosh
Captain, Royal Australian Navy
Accredited Decision Maker
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