

From: s 47F
To: FOI
Subject: Re: PM&C FOI request FOI/2021/003 - Decision [SEC=OFFICIAL]
Date: Wednesday, 17 March 2021 12:59:30 PM

Dear PM&C,

Thank you for waiving the balance of the outstanding \$103.39 charge.

We ask for an internal review of the decision to withhold all of the information contained in the documents. We contend that the release of some of the information is both possible and reasonable in the circumstances. As always, we do not seek individuals names.

We would be grateful if you would consider the points following:

1. The extent to which the information is well known.

The documents relate to the Australian contingent to GE's humanitarian operation in Banda Aceh. The contingent's composition, roles and activities are described in detail in Mr Keith Fennel's memoir titled "Warrior Brothers: my life in the Australian SAS". Mr Fennel was a member of the Australian continent. His memoir was listed on Australia's best sellers list for some time and it has enjoyed wide readership in Australia and internationally.

2. The availability of the information from public accessible sources

As noted, some of the information is described in a personal memoir. It was published over 12 years ago and was a best seller in Australia. Throughout that time, the information remained readily available from public accessible sources including walk in book stores, local and state libraries, online sources (audiobook and ebook). The information is very easy to obtain.

3. Any other matters that the agency or Minister considers relevant.

s 47F had a duty to provide comprehensive advice to government regarding the HOSM. The Department's 2009 assessment omits significant materially relevant information. s 47F may not have advised Government that GE engaged a commercial organisation to deploy security contractors to protect their staff and enable their humanitarian operation in Banda Aceh. I spoke with s 47F on these points after the contingent's eligibility was publicly gazetted

4. Whether disclosure of the information might advance the public interest in government transparency and integrity

Mr Fennel's description of the Australian contingent's composition is materially different to the advice s 47F provided the Government in document B09/1640. Why this is the case is unclear and disclosure will advance the public interest in government transparency and integrity.

4. Likely use or dissemination of the information

The disclosed information will inform ongoing discussions with Members of Parliament and several Federal Representatives.

Thanks for your time.

Kind regards

s 47F

On 15 Mar 2021, at 17:29, FOI <xxx@xxx.xxx.xx> wrote:

OFFICIAL

Dear s 47F

Please find attached the decision on your request to the Department of the Prime Minister and Cabinet under the *Freedom of Information Act 1982*.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
<[image001.jpg](#)><[image002.jpg](#)><[image003.jpg](#)><[image004.jpg](#)>
<[image005.png](#)>

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<[FOI-2021-003 - Decision.pdf](#)><[FOI-2021-003 - Schedule of documents.pdf](#)>

From: [FOI](#)
To: s 47F
Cc: [FOI](#)
Subject: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]
Date: Wednesday, 31 March 2021 4:24:24 PM
Attachments: [Re PMC FOI request FOI2021003 - Decision SECOFFICIAL.msg](#)
[image005.png](#)

OFFICIAL

FOI/2021/003IR

Dear s 47F

We write in relation to your email of 17 March 2021 (**attached**), received by the Department of the Prime Minister and Cabinet (the **Department**), in which you made a request for internal review of the Department's decision, dated 15 March 2021, in relation to your request under the *Freedom of Information Act 1982* (the **FOI Act**).

Timeframe for receiving your internal review decision

We received your request for internal review on 17 March 2021 and the 30-day statutory period for internal review commenced from the day after that date. You should therefore expect the internal review decision from us by 16 April 2021.

Publication of documents

Please note that information released under the FOI Act may later be published online on our disclosure log at <https://www.pmc.gov.au/government/departmental-foi-disclosure-logs>, subject to certain exceptions. If you think you might wish to raise any objections to the publication of any of the information which may be released to you please contact us by email at xxx@xxx.xxx.xx. If you do wish to object to the publication of information, you would need to provide supporting reasons.

Exclusion of officers' names and contact details

For documents that fall within scope of the request, it is the Department's policy to withhold:

- any person's signature;
- the names and contact details of Australian Public Service officers not in the Senior Executive Service (SES);
- the mobile or direct numbers of SES officers;
- the names and contact details of Ministerial staff at a level below Chief of Staff.

The names and other details of SES officers will not be withheld unless there is some reason for that information to be exempt from release. If you require signatures, the names and contact details of non-SES officers or Ministerial staff below the level of Chief of Staff, or the mobile or direct numbers of SES officers please let us know at xxx@xxx.xxx.xx so the decision-maker may consider; otherwise we will take it that you agree to that information being excluded from the scope of your request (that is, the information will be treated as irrelevant and redacted from any documents for release).

We will write again when the Department has more information. Further information on FOI

processing can be found at the website of the Office of the Australian Information Commissioner
<https://www.oaic.gov.au/freedom-of-information/>.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



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<[image001.jpg](#)><[image002.jpg](#)><[image003.jpg](#)><[image004.jpg](#)>
<[image005.png](#)>

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<[FOI-2021-003 - Decision.pdf](#)><[FOI-2021-003 - Schedule of documents.pdf](#)>

From: [Microsoft Outlook](#)
To: [FOI](#)
Subject: Delivered: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:48 PM
Attachments: [FOI2021003IR - Freedom of information - Acknowledgement SECOFFICIAL.msg](#)

Your message has been delivered to the following recipients:

FOI (~~@~~~~xx~~ <mailto:~~@~~~~xx~~>

Subject: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]

From: [Microsoft Outlook](#)
To: [REDACTED] s 47F
Subject: Relayed: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:49 PM
Attachments: [FOI2021003IR - Freedom of information - Acknowledgement SECOFFICIAL.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[REDACTED] s 47F ([REDACTED] s 47F <mailto:[REDACTED] s 47F>
Subject: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]

From: [FOI](#)
To: [FOI](#)
Subject: Read: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:47 PM

Your message

To: FOI
Subject: FOI/2021/003IR - Freedom of information - Acknowledgement [SEC=OFFICIAL]
Sent: Wednesday, March 31, 2021 4:24:22 PM (UTC+10:00) Canberra, Melbourne, Sydney
was read on Wednesday, March 31, 2021 4:27:23 PM (UTC+10:00) Canberra, Melbourne, Sydney.

From: [FOI](#)
To: s 47F
Cc: s 47F [FOI](#)
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]
Date: Thursday, 1 April 2021 6:15:57 PM
Attachments: [image005.png](#)
[FOI-2021-003 - Consultation - s 47F.pdf](#)

OFFICIAL

Dear s 47F

We refer to the Department's email of 15 March 2021 below.

The FOI applicant has requested internal review of the Department's decision to refuse access to the attached documents under section 47F of the FOI Act (personal privacy).

If you wish to alter your views on release of the documents, or you wish to provide more information, please do so by **Friday, 9 April 2021**.

If we do not hear from you by Friday, 9 April 2021, then the Department will rely on the views you expressed in your email of 24 February 2021.

More information about your rights are published on the web site of the Office of the Australian Information Commissioner: <https://www.oaic.gov.au/freedom-of-information/your-foi-rights/when-an-foi-request-affects-you/>.

Should you require more information, please contact us.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, 15 March 2021 8:36 PM
To: s 47F <s 47F>
Cc: FOI <xxx@xxx.xxx.xx>; s 47F <s 47F> <s 47F>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear **s 47F**

Thank you for your email of 24 February 2021 responding to our consultation request.

We write to advise that the decision-maker for this FOI request has decided to refuse access to the documents in full, on the basis that the decision-maker found that the documents were conditionally exempt under section 47F of the FOI Act (personal privacy) and that their disclosure would, on balance, be contrary to the public interest.

The decision was notified to the applicant today.

If the applicant seeks review of the Department's decision, we will contact you again.

Yours sincerely

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Government Division | Department of the Prime Minister and Cabinet
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e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
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From: **s 47F** <**s 47F**>
Sent: Wednesday, 24 February 2021 10:41 AM
To: FOI <xxx@xxx.xxx.xx>; **s 47F** <**s 47F**>
Cc: FOI <xxx@xxx.xxx.xx>
Subject: Re: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

Dear Staff

Please do not disclose personal information **s 47F** on this matter.

s 47F

Regards **s 47F**

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From: FOI <xxx@xxx.xxx.xx>

Sent: Tuesday, February 23, 2021 5:17:47 PM

To: [REDACTED] s 47F <[REDACTED] s 47F> [REDACTED] s 47F
<[REDACTED] s 47F>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: FW: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear [REDACTED] s 47F

We refer to our email of 15 February 2021 below. We would be grateful for a response by **Friday, 26 February 2021**. Should you require more time to respond, please contact us. If we do not receive a response from you by Friday, 26 February 2021, we may proceed to make a decision on access to the documents.

Yours sincerely

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p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
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From: FOI <xxx@xxx.xxx.xx>

Sent: Monday, 15 February 2021 1:04 PM

To: [REDACTED] s 47F <[REDACTED] s 47F> [REDACTED] s 47F
<[REDACTED] s 47F>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear [REDACTED] s 47F

The Department of the Prime Minister and Cabinet (the Department) has received a request under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

What is the FOI Act?

The FOI Act is legislation that gives every person a legally enforceable right to obtain access to a document of an Australian Government agency or an official document of a minister, unless the document is exempt.

Why is the Department contacting you?

The Department has located documents relevant to the FOI request containing personal information about you. I am inviting you to tell us whether personal information should be exempt under the FOI Act.

Copies of the documents are attached. Material not within the scope of the FOI request has been redacted from the documents.

We would appreciate it if you could respond to the Department by **Friday, 19 February 2021** advising whether you have any concerns with the release of the documents. Should you require more time, please contact me

Please see below for an explanation of what 'personal' information means under the FOI Act, the process that the decision-maker must follow, publication of any material that could be released as a result of this application, and your appeal rights should the decision-maker make a decision you do not agree with.

Personal information – section 47F

Under section 47F of the FOI Act, a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about an individual. 'Personal information' under the FOI Act has the same meaning as in the *Privacy Act 1988* and is defined as 'information or an opinion about an identified individual, or an individual who is reasonably identifiable...whether the information or opinion is true or not and...whether the information or opinion is recorded in a material form or not'.

Under section 27A of the FOI Act, I invite your comments on whether disclosing the attached documents would involve an unreasonable disclosure of your personal information, and if so, reasons for that view.

In determining whether disclosing your personal information would be unreasonable, the decision-maker must have regard to the following factors, in accordance with section 47F(2) of the FOI Act:

- the extent to which the information is well known;
- whether the person to whom the information relates is known to be associated with the matters dealt with in the document;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant.

More information about this exemption is available in the 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*', 'Part 6 – Conditional Exemptions': <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions/#documents-affecting-personal-privacy-s-47f>.

Public interest conditional exemption

If the decision-maker decides that your personal information is conditionally exempt under section 47F, they are also required to consider whether the disclosure of the document would be contrary to the public interest. Under section 11B of the FOI Act, the decision-maker is required to consider factors such as:

- promoting the objects of the FOI Act;
- informing debate on a matter of public importance; and
- promoting effective oversight of public expenditure.

The decision-maker cannot take the following factors into account:

- access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- access to the document could result in any person misinterpreting or misunderstanding the document;
- access to the document could result in confusion or unnecessary debate.

If you consider that disclosure of a document would conditionally exempt under section 47F, I invite you to comment on whether release of the documents would be contrary to the public interest, in light of the above considerations.

Section 22 of the FOI Act allows information to be deleted from the document, where that information should not be disclosed. You may wish to consider whether deletion of any specific information would eliminate or substantially reduce any objections you might have to the release of the document.

Publication of information released to the FOI applicant

The FOI Act requires Australian Government agencies to publish information in documents released under the FOI Act. Under section 11C of the FOI Act, the Department cannot publish:

- personal information about any individual for this purpose, if it would be unreasonable to publish the information;
- information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information.

Apart from possible release to the FOI applicant, I invite you to comment on the possible release of the document to the public more generally on the Department's website (<https://www.pmc.gov.au/government/departmental-foi-disclosure-logs>). If you consider that the documents should not be published, please provide reasons why the publication of the document would be unreasonable.

Review rights

If the decision-maker decides to release the documents and you do not want them released, you will be provided with the decision and information on your rights of review.

More information about your rights of review is available at: <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/personal-and-business-information-third-party-review->

[rights/](#).

How to contact us

Please send your response to by email to xxx@xxx.xxx.xx.

Should you require more information, please contact me.

Yours sincerely

s 47F

| Adviser

FOI and Privacy Section | Legal Policy Branch

Government Division | Department of the Prime Minister and Cabinet

p. (02) 6271 5849

e. xxx@xxx.xxx.xx | w. www.pmc.gov.au

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From: [Microsoft Outlook](#)
To: [FOI](#)
Subject: Delivered: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:46 PM
Attachments: [RE FOI consultation from the Department of the Prime Minister and Cabinet \(PMC ref FOI2021003\) SECOFFICIAL.msg](#)

Your message has been delivered to the following recipients:

FOI (FOI@pm.gc.ca)

Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

From: [Microsoft Outlook](#)
To: s 47F ; s 47F
Subject: Relayed: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:46 PM
Attachments: [RE FOI consultation from the Department of the Prime Minister and Cabinet \(PMC ref FOI2021003\) SECOFFICIAL.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s 47F (s 47F <mailto:s 47F>
s 47F (s 47F <mailto:s 47F>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

s 47F

From: Mail Delivery System [REDACTED] s 47F
To: [REDACTED] s 47F
Sent: Thursday, 1 April 2021 6:16 PM
Subject: Undeliverable: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

Delivery has failed to these recipients or groups:

s 47F

The email address you entered couldn't be found. Please check the recipient's email address and try to resend the message. If the problem continues, please contact your helpdesk.

Diagnostic information for administrators:

Generating server: sv1.per.eftel.com

s 47F

Remote Server returned '< #5.1.1 x-unix; LDAP user not found>'

Original message headers:

Return-Path: <prvs=71856b360=FOI@pmc.gov.au>
 Received: from mta651.syd.oss-core.net (mta653.syd.oss-core.net [203.134.11.143])
 by sv1.per.eftel.com (Postfix) with ESMTP id 586ADCE04E
 for [REDACTED] s 47F; Thu, 1 Apr 2021 15:16:09 +0800 (AWST)
 Received: [REDACTED] s 47F
 [REDACTED] s 47F
 for <[REDACTED] s 47F> Thu, 1 Apr 2021 07:16:08 +0000 (UTC)
 Received-SPF: Pass (mx684.syd.oss-core.net: domain of
 FOI@pmc.gov.au designates 103.232.117.38 as permitted sender)
 identity=pra; client-ip=103.232.117.38;
 receiver=mx684.syd.oss-core.net;
 envelope-from="prvs=71856b360=FOI@pmc.gov.au";
 x-sender="FOI@pmc.gov.au"; x-conformance=sidf_strict;
 x-record-type="v=spf1"; x-record-text="v=spf1
 ip4:124.47.137.51 ip4:124.47.132.185 ip4:103.232.117.38
 ip4:124.47.163.173 ip6:2400:cc00:2:b::103
 ip6:2400:cc00:2:b::104 ip6:2400:cc00:1:b::99
 ip6:2400:cc00:1:b::100 -all"
 Received-SPF: Pass (mx684.syd.oss-core.net: domain of
 prvs=71856b360=FOI@pmc.gov.au designates 103.232.117.38 as
 permitted sender) identity=mailfrom;
 client-ip=103.232.117.38; receiver=mx684.syd.oss-core.net;
 envelope-from="prvs=71856b360=FOI@pmc.gov.au";
 x-sender="prvs=71856b360=FOI@pmc.gov.au";
 x-conformance=sidf_strict; x-record-type="v=spf1";
 x-record-text="v=spf1 ip4:124.47.137.51 ip4:124.47.132.185
 ip4:103.232.117.38 ip4:124.47.163.173 ip6:2400:cc00:2:b::103
 ip6:2400:cc00:2:b::104 ip6:2400:cc00:1:b::99
 ip6:2400:cc00:1:b::100 -all"

X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
x-protective-marking: VER=2018.4, NS=gov.au, SEC=OFFICIAL,
ORIGIN=xxx@xxx.xxx.xx
x-original-protective-marking: VER=2018.4, NS=gov.au, SEC=OFFICIAL,
ORIGIN=xxx@xxx.xxx.xx
x-janusnet-dialogconfirmed: True
x-janusnet-pmconfirmed: True
x-janusnet-msgid-original: ED8055C6398542FA86936EF2DCCFCD4F
x-janusnet-threadid: F8FEC608BB6A46ADBD9F7457E6C7C6A7
x-janusnet-msgid: F5210DE56C224ED888AD9935CD16B9CA
x-janusnet-classifier: Janusseal for Outlook 3.5.6
x-janusnet-pm-origin: xxx@xxx.xxx.xx
x-janusnet-pm-time: 2021-03-15T09:36:21Z
x-janusnet-pm-note:
x-janusnet-pm-draft: VER=2018.4, NS=gov.au, SEC=OFFICIAL,
ORIGIN=xxx@xxx.xxx.xx
x-ms-exchange-messagesentrepresentingtype: 1
x-ms-exchange-transport-fromentityheader: Hosted
x-originating-ip: [10.40.129.5]
Content-Type: text/plain
MIME-Version: 1.0

From: s 47F
To: FOI
Subject: Re: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]
Date: Tuesday, 6 April 2021 7:15:47 AM
Attachments: [image005.png](#)

Dear Staff,

s 47F

Regards s 47F

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From: FOI <xxx@xxx.xxx.xx>
Sent: Thursday, April 1, 2021 5:15:50 PM
To: s 47F <s 47F>
Cc: s 47F <s 47F> FOI <xxx@xxx.xxx.xx>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

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Should you require more information, please contact us.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, 15 March 2021 8:36 PM
To: s 47F <> <s 47F <>
Cc: FOI <xxx@xxx.xxx.xx>; s 47F <> <s 47F <>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

Thank you for your email of 24 February 2021 responding to our consultation request.

We write to advise that the decision-maker for this FOI request has decided to refuse access to the documents in full, on the basis that the decision-maker found that the documents were conditionally exempt under section 47F of the FOI Act (personal privacy) and that their disclosure would, on balance, be contrary to the public interest.

The decision was notified to the applicant today.

If the applicant seeks review of the Department's decision, we will contact you again.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
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The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: s 47F <[redacted]> <[redacted]>
Sent: Wednesday, 24 February 2021 10:41 AM
To: FOI <xxx@xxx.xxx.xx>; [redacted] s 47F <[redacted]> <[redacted] s 47F
Cc: FOI <xxx@xxx.xxx.xx>
Subject: Re: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

Dear Staff

Please do not disclose personal information [redacted] s 47F on this matter.

[redacted] s 47F

Regards [redacted] s 47F

Get [Outlook for iOS](#)

From: FOI <xxx@xxx.xxx.xx>
Sent: Tuesday, February 23, 2021 5:17:47 PM
To: [redacted] s 47F <[redacted]> <[redacted] s 47F <[redacted] s 47F
 <[redacted] s 47F
Cc: FOI <xxx@xxx.xxx.xx>
Subject: FW: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear [redacted] s 47F

We refer to our email of 15 February 2021 below. We would be grateful for a response by **Friday, 26 February 2021**. Should you require more time to respond, please contact us. If we do not receive a response from you by Friday, 26 February 2021, we may proceed to make a decision on access to the documents.

Yours sincerely

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From: FOI <xxx@xxx.xxx.xx>

Sent: Monday, 15 February 2021 1:04 PM

To: s 47F <s 47F> s 47F
<s 47F>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

The Department of the Prime Minister and Cabinet (the Department) has received a request under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

We seek a copy of s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

What is the FOI Act?

The FOI Act is legislation that gives every person a legally enforceable right to obtain access to a document of an Australian Government agency or an official document of a minister, unless the document is exempt.

Why is the Department contacting you?

The Department has located documents relevant to the FOI request containing personal information about you. I am inviting you to tell us whether personal information should be exempt under the FOI Act.

Copies of the documents are attached. Material not within the scope of the FOI request has been redacted from the documents.

We would appreciate it if you could respond to the Department by **Friday, 19 February 2021** advising whether you have any concerns with the release of the documents. Should you require more time, please contact me

Please see below for an explanation of what 'personal' information means under the FOI Act, the process that the decision-maker must follow, publication of any material that could be released as a result of this application, and your appeal rights should the decision-maker make a decision you do not agree with.

Personal information – section 47F

Under section 47F of the FOI Act, a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about an individual. 'Personal information' under the FOI Act has the same meaning as in the *Privacy Act 1988* and is defined as 'information or an opinion about an identified individual, or an individual who is reasonably identifiable...whether the information or opinion is true or not and...whether the information or opinion is recorded in a material form or not'.

Under section 27A of the FOI Act, I invite your comments on whether disclosing the attached documents would involve an unreasonable disclosure of your personal information, and if so, reasons for that view.

In determining whether disclosing your personal information would be unreasonable, the decision-maker must have regard to the following factors, in accordance with section 47F(2) of the FOI Act:

- the extent to which the information is well known;
- whether the person to whom the information relates is known to be associated with the matters dealt with in the document;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant.

More information about this exemption is available in the 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*', 'Part 6 – Conditional Exemptions': <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions/#documents-affecting-personal-privacy-s-47f>.

Public interest conditional exemption

If the decision-maker decides that your personal information is conditionally exempt under section 47F, they are also required to consider whether the disclosure of the document would be contrary to the public interest. Under section 11B of the FOI Act, the decision-maker is required to consider factors such as:

- promoting the objects of the FOI Act;
- informing debate on a matter of public importance; and
- promoting effective oversight of public expenditure.

The decision-maker cannot take the following factors into account:

- access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- access to the document could result in any person misinterpreting or misunderstanding the document;
- access to the document could result in confusion or unnecessary debate.

If you consider that disclosure of a document would conditionally exempt under section 47F, I invite you to comment on whether release of the documents would be contrary to the public interest, in light of the above considerations.

Section 22 of the FOI Act allows information to be deleted from the document, where that information should not be disclosed. You may wish to consider whether deletion of any specific

information would eliminate or substantially reduce any objections you might have to the release of the document.

Publication of information released to the FOI applicant

The FOI Act requires Australian Government agencies to publish information in documents released under the FOI Act. Under section 11C of the FOI Act, the Department cannot publish:

- personal information about any individual for this purpose, if it would be unreasonable to publish the information;
- information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information.

Apart from possible release to the FOI applicant, I invite you to comment on the possible release of the document to the public more generally on the Department's website (<https://www.pmc.gov.au/government/departmental-foi-disclosure-logs>). If you consider that the documents should not be published, please provide reasons why the publication of the document would be unreasonable.

Review rights

If the decision-maker decides to release the documents and you do not want them released, you will be provided with the decision and information on your rights of review.

More information about your rights of review is available at: <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/personal-and-business-information-third-party-review-rights/>.

How to contact us

Please send your response to by email to xxx@xxx.xxx.xx.

Should you require more information, please contact me.

Yours sincerely

s 47F

| Adviser

FOI and Privacy Section | Legal Policy Branch

Government Division | Department of the Prime Minister and Cabinet

p. (02) 6271 5849

e. xxx@xxx.xxx.xx | w. www.pmc.gov.au

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From: s 47F
To:
Cc: FOI
Subject: RE: For advice by COB, Tue 6 April 2021 - FOI/2021/003IR [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]
Date: Tuesday, 6 April 2021 9:57:14 AM
Attachments: [image005.png](#)

**OFFICIAL: Sensitive
Personal privacy**

Thanks s 47F

Yes, in light of this response, I will affirm the primary decision.

Cheers,

s 47F

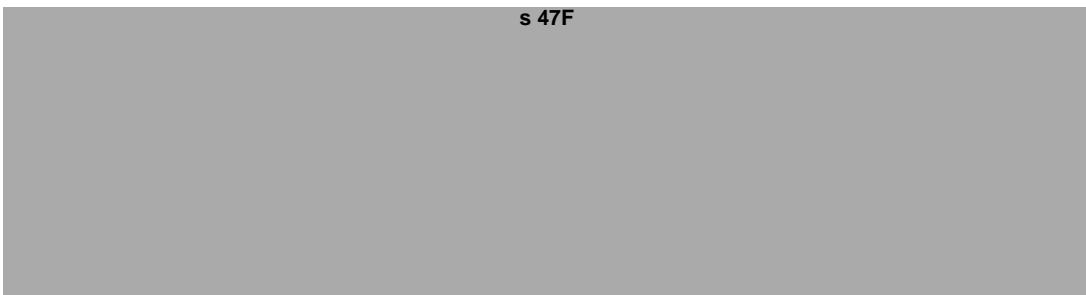
From: s 47F <s 47F@pmc.gov.au>
Sent: Tuesday, 6 April 2021 9:56 AM
To: s 47F <s 47F@pmc.gov.au>
Cc: FOI <xxx@xxx.xxx.xx>
Subject: For advice by COB, Tue 6 April 2021 - FOI/2021/003IR [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

**OFFICIAL: Sensitive
Personal privacy**

Hi s 47F

The third-party s 47F has responded (**attached**) to the third-party consultation as follows:

s 47F



In light of s 47F response, I seek your confirmation that you wish to affirm the primary decision (**attached**) refusing access to the documents (**attached**) with the scope of the request under s 47F of the FOI Act (personal privacy), and I will draft a decision for your consideration accordingly.

Regards

s 47F | Adviser
FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. s 47F | m. s 47F
e. s 47F [pmc.gov.au](mailto:s 47F@pmc.gov.au) | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



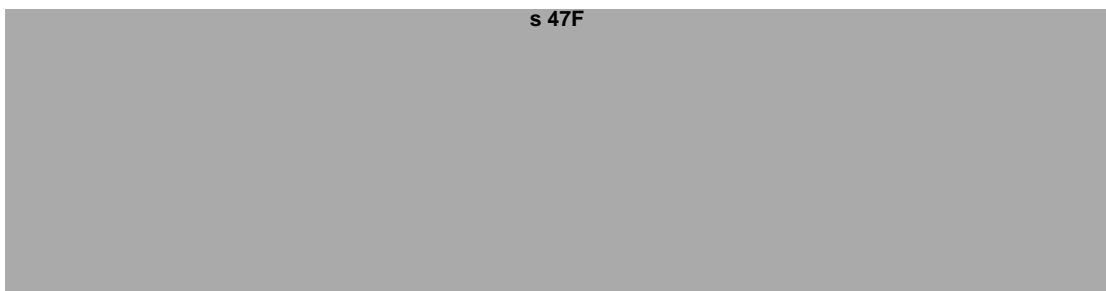
The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: s 47F
To: s 47F
Cc: FOI
Subject: For advice by COB, Tue 6 April 2021 - FOI/2021/003IR [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]
Date: Tuesday, 6 April 2021 9:55:42 AM
Attachments: [Re FOI consultation from the Department of the Prime Minister and Cabinet \(PMC ref FOI2021003\) SECOFFICIAL.msg](#)
[image005.png](#)
[FOI-2021-003 - Documents - Marked-up.pdf](#)
[FOI-2021-003 - Decision.pdf](#)

**OFFICIAL: Sensitive
Personal privacy**

Hi s 47F

The third-party s 47F has responded (**attached**) to the third-party consultation as follows:



In light of s 47F response, I seek your confirmation that you wish to affirm the primary decision (**attached**) refusing access to the documents (**attached**) with the scope of the request under s 47F of the FOI Act (personal privacy), and I will draft a decision for your consideration accordingly.

Regards

s 47F | Adviser
FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. s 47F | m. s 47F
e. s 47F pmc.gov.au | w. www.pmc.gov.au
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From: s 47F
To: FOI
Subject: Re: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]
Date: Tuesday, 6 April 2021 7:15:47 AM
Attachments: [image005.png](#)

Dear Staff,

s 47F

Regards s 47F

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From: FOI <xxx@xxx.xxx.xx>
Sent: Thursday, April 1, 2021 5:15:50 PM
To: s 47F <s 47F>
Cc: s 47F <s 47F> FOI <xxx@xxx.xxx.xx>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

We refer to the Department's email of 15 March 2021 below.

The FOI applicant has requested internal review of the Department's decision to refuse access to the attached documents under section 47F of the FOI Act (personal privacy).

If you wish to alter your views on release of the documents, or you wish to provide more information, please do so by **Friday, 9 April 2021**.

If we do not hear from you by Friday, 9 April 2021, then the Department will rely on the views you expressed in your email of 24 February 2021.

More information about your rights are published on the web site of the Office of the Australian Information Commissioner: <https://www.oaic.gov.au/freedom-of-information/your-foi-rights/when-an-foi-request-affects-you/>.

Should you require more information, please contact us.

Yours sincerely

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e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
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From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, 15 March 2021 8:36 PM
To: s 47F <> <s 47F <>
Cc: FOI <xxx@xxx.xxx.xx>; s 47F <> <s 47F <>
Subject: RE: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

Thank you for your email of 24 February 2021 responding to our consultation request.

We write to advise that the decision-maker for this FOI request has decided to refuse access to the documents in full, on the basis that the decision-maker found that the documents were conditionally exempt under section 47F of the FOI Act (personal privacy) and that their disclosure would, on balance, be contrary to the public interest.

The decision was notified to the applicant today.

If the applicant seeks review of the Department's decision, we will contact you again.

Yours sincerely

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From: s 47F < >
Sent: Wednesday, 24 February 2021 10:41 AM
To: FOI <xxx@xxx.xxx.xx>; s 47F < >
Cc: FOI <xxx@xxx.xxx.xx>
Subject: Re: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

Dear Staff

Please do not disclose personal information s 47F on this matter.

s 47F

Regards s 47F

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From: FOI <xxx@xxx.xxx.xx>
Sent: Tuesday, February 23, 2021 5:17:47 PM
To: s 47F < > s 47F < > s 47F < >
Cc: FOI <xxx@xxx.xxx.xx>
Subject: FW: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

We refer to our email of 15 February 2021 below. We would be grateful for a response by **Friday, 26 February 2021**. Should you require more time to respond, please contact us. If we do not receive a response from you by Friday, 26 February 2021, we may proceed to make a decision on access to the documents.

Yours sincerely

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From: FOI <xxx@xxx.xxx.xx>

Sent: Monday, 15 February 2021 1:04 PM

To: [REDACTED] s 47F <[REDACTED] s 47F> [REDACTED] s 47F
<[REDACTED] s 47F>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: FOI consultation from the Department of the Prime Minister and Cabinet (PM&C ref: FOI/2021/003) [SEC=OFFICIAL]

OFFICIAL

Dear [REDACTED] s 47F

The Department of the Prime Minister and Cabinet (the Department) has received a request under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

What is the FOI Act?

The FOI Act is legislation that gives every person a legally enforceable right to obtain access to a document of an Australian Government agency or an official document of a minister, unless the document is exempt.

Why is the Department contacting you?

The Department has located documents relevant to the FOI request containing personal information about you. I am inviting you to tell us whether personal information should be exempt under the FOI Act.

Copies of the documents are attached. Material not within the scope of the FOI request has been redacted from the documents.

We would appreciate it if you could respond to the Department by **Friday, 19 February 2021** advising whether you have any concerns with the release of the documents. Should you require more time, please contact me

Please see below for an explanation of what 'personal' information means under the FOI Act, the process that the decision-maker must follow, publication of any material that could be released as a result of this application, and your appeal rights should the decision-maker make a decision you do not agree with.

Personal information – section 47F

Under section 47F of the FOI Act, a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about an individual. 'Personal information' under the FOI Act has the same meaning as in the *Privacy Act 1988* and is defined as 'information or an opinion about an identified individual, or an individual who is reasonably identifiable...whether the information or opinion is true or not and...whether the information or opinion is recorded in a material form or not'.

Under section 27A of the FOI Act, I invite your comments on whether disclosing the attached documents would involve an unreasonable disclosure of your personal information, and if so, reasons for that view.

In determining whether disclosing your personal information would be unreasonable, the decision-maker must have regard to the following factors, in accordance with section 47F(2) of the FOI Act:

- the extent to which the information is well known;
- whether the person to whom the information relates is known to be associated with the matters dealt with in the document;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant.

More information about this exemption is available in the 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*', 'Part 6 – Conditional Exemptions': <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-6-conditional-exemptions/#documents-affecting-personal-privacy-s-47f>.

Public interest conditional exemption

If the decision-maker decides that your personal information is conditionally exempt under section 47F, they are also required to consider whether the disclosure of the document would be contrary to the public interest. Under section 11B of the FOI Act, the decision-maker is required to consider factors such as:

- promoting the objects of the FOI Act;
- informing debate on a matter of public importance; and
- promoting effective oversight of public expenditure.

The decision-maker cannot take the following factors into account:

- access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- access to the document could result in any person misinterpreting or misunderstanding the document;
- access to the document could result in confusion or unnecessary debate.

If you consider that disclosure of a document would conditionally exempt under section 47F, I invite you to comment on whether release of the documents would be contrary to the public interest, in light of the above considerations.

Section 22 of the FOI Act allows information to be deleted from the document, where that information should not be disclosed. You may wish to consider whether deletion of any specific

information would eliminate or substantially reduce any objections you might have to the release of the document.

Publication of information released to the FOI applicant

The FOI Act requires Australian Government agencies to publish information in documents released under the FOI Act. Under section 11C of the FOI Act, the Department cannot publish:

- personal information about any individual for this purpose, if it would be unreasonable to publish the information;
- information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information.

Apart from possible release to the FOI applicant, I invite you to comment on the possible release of the document to the public more generally on the Department's website (<https://www.pmc.gov.au/government/departmental-foi-disclosure-logs>). If you consider that the documents should not be published, please provide reasons why the publication of the document would be unreasonable.

Review rights

If the decision-maker decides to release the documents and you do not want them released, you will be provided with the decision and information on your rights of review.

More information about your rights of review is available at: <https://www.oaic.gov.au/freedom-of-information/guidance-and-advice/personal-and-business-information-third-party-review-rights/>.

How to contact us

Please send your response to by email to xxx@xxx.xxx.xx.

Should you require more information, please contact me.

Yours sincerely

s 47F

| Adviser

FOI and Privacy Section | Legal Policy Branch

Government Division | Department of the Prime Minister and Cabinet

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Australian Government
Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2021/003

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: [REDACTED] s 47F

DECISION BY: [REDACTED] s 47F
Acting First Assistant Secretary
Government Division

By email: [REDACTED] s 47F

Dear [REDACTED] s 47F

I refer to your email, dated 13 January 2021, to the Department of the Prime Minister and Cabinet (the **Department**), in which you made a request under the *Freedom of Information Act 1982* (the **FOI Act**) in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

On 11 February 2021, the Department wrote to you to advise that the processing period for your request has been extended by 30 days under section 15(6) of the FOI Act to enable the Department to undertake third party consultation.

Authorised decision-maker

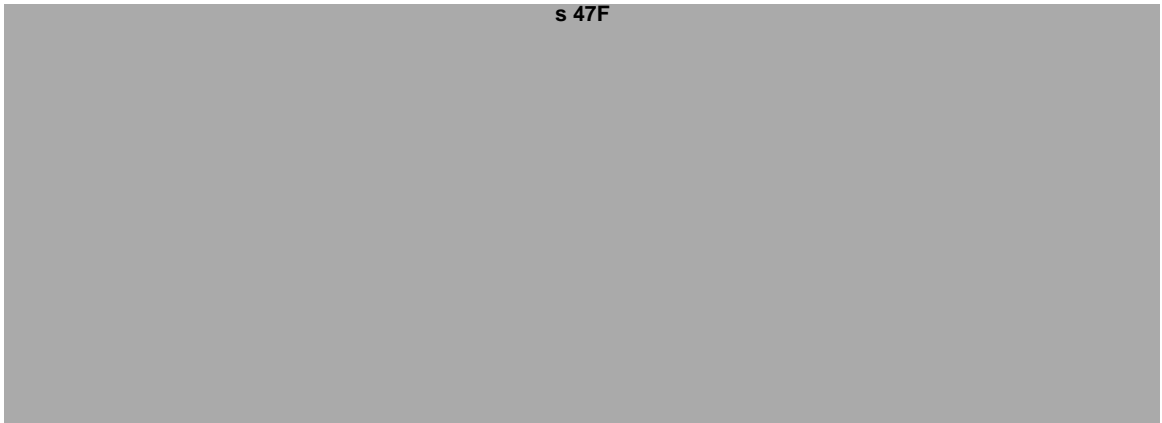
I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Processing and access charges

On 10 February 2021, the Department issued you a notice of the preliminary charge in the amount of \$137.85 to process your request.

On 10 February 2021, the Department received your payment of a deposit in the amount of \$34.46 towards the charge. The balance of the charge outstanding was therefore \$103.39.

On 10 February 2021, you requested



Having regard to your reasons for seeking reduction or waiver, I have decided to waive the balance of the charge which was \$103.39.

In accordance with the procedures specified in the *Freedom of Information (Charges) Regulations 2019* for imposing charges on an applicant, I have fixed the charge at \$34.46 and no further charge is payable in respect of the request.

As you have paid the full amount of \$34.46, I find that the charge to process this request has been paid in full. This means that I am now required to provide you with a decision in relation to your request.

Documents relevant to the terms of your request

The Department has identified 9 documents relevant to your request, which are described in the schedule at [Attachment A](#).

Decision

I have decided to exempt, in full, from disclosure the documents relevant to your request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

In making my decision, I have considered the following:

- the terms of your request;
- the documents relevant to your request;
- comments received from a third party in response to a consultation under section 27A of the FOI Act; and
- The 'Guidelines made by the Australian Information Commissioner issued under section 93A of the *Freedom of Information Act 1982*' (the **FOI Guidelines**).

Reasons

Section 47F of the FOI Act – personal information

Section 47F(1) of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

'Personal information' under the FOI Act has the same meaning as in the *Privacy Act 1988* and 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.*

Section 47F(2) of the FOI Act states that in determining whether disclosure of the document would involve the unreasonable disclosure of personal information, an agency must have regard to the following matters:

- the extent to which the information is well known;
- 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;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency or Minister considers relevant.

The FOI Guidelines states that key factors for determining whether disclosure is unreasonable include:

- the author of the document is identifiable;
- the document contains third party personal information;
- release of the document would cause stress on the third party; and
- no public purpose would be achieved through release.¹

The FOI Guidelines provide that other factors that may be relevant to whether disclosure of personal information would be unreasonable under section 47F of the FOI Act include:

- the nature, age and current relevance of the information
- any detriment that disclosure may cause to the person to whom the information relates
- any opposition to disclosure expressed or likely to be held by that person
- the circumstances of an agency's collection and use of the information
- the fact that the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act
- any submission an FOI applicant chooses to make in support of their application as to their reasons for seeking access and their intended or likely use or dissemination of the information
- whether disclosure of the information might advance the public interest in government transparency and integrity.²

I am satisfied that the documents contain the personal information of one or more individuals. I consider that the following factors weigh in favour of a finding that disclosure of the personal information would be unreasonable:

- the personal information may not be well known;
- the persons to whom the information relates may not be known to be (or to have been) associated with the matters dealt with in the document;
- the personal information may not be available from publicly accessible sources;
- an individual concerned has objected to the disclosure of their personal information;
- the personal information does not appear to have been provided to Government on the understanding that it would be made public;

¹ FOI Guidelines, [6.142].

² FOI Guidelines, [6.143].

- the personal information may be sensitive;
- the author of the documents is identifiable;
- the documents contain third party personal information.

I am therefore satisfied that the documents are conditionally exempt under section 47F of the FOI Act.

Section 11A(5) of the FOI Act – the public interest test

Section 11A(5) of the FOI Act provides that a conditionally exempt document must nevertheless be disclosed to the applicant unless its disclosure would, on balance, be contrary to the public interest.

In determining whether disclosure would be contrary to the public interest, the FOI Act requires a decision-maker to balance the public interest factors in favour of disclosure against the factors against disclosure.

Section 11B(4) of the FOI Act sets out the following factors that the decision-maker must not take into account when deciding whether access to the document would be contrary to the public interest:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss in confidence in the Commonwealth Government;
- b) access to the document could result in any person misinterpreting or misunderstanding the document;
- c) the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made; or
- d) access to the document could result in confusion or unnecessary debate.

I have not taken any of the above factors into account in making my decision.

Factors in favour of disclosure

The FOI Act sets out four factors favouring disclosure which must be considered if relevant, namely:³

- promote the objects of the FOI Act;
- inform debate on a matter of public importance;
- promote effective oversight of public expenditure; or
- allow a person to access his or her personal information.

I am satisfied that disclosure of the conditionally exempt information may promote the objects of the FOI Act. The FOI Guidelines contain a non-exhaustive list of public interest factors favouring disclosure that may also be relevant in particular circumstances.⁴ However, the list in the FOI Guidelines contains no additional relevant public interest factors to those that I have already taken account of as described above.

Factors against disclosure

The FOI Act does not provide for any public interest factors against disclosure that decision makers may consider. The FOI Guidelines contain a non-exhaustive list of public interest factors

³ See section 11B(3) of the FOI Act and FOI Guidelines, [6.17].

⁴ FOI Guidelines, [6.19].

against disclosure that may also be relevant in particular circumstances,⁵ to which I have had regard.

I consider the following factors favour non-disclosure of that material:

- disclosure would affect the ability of the Department to provide comprehensive advice to Government on a key Commonwealth program, namely the Humanitarian Overseas Service Medal (HOSM), a significant medal in the Australian honours system, administered by the Department;
- disclosure would inhibit the ability of the Department to provide comprehensive advice to the Government, on the basis that external stakeholders would be discouraged from corresponding with the Department during the consultation process, if there were a risk of such correspondence being publicly released; and
- disclosure would inhibit the ability of the Department to provide comprehensive advice to the Government, on the basis that the level of detail contained in future internal correspondence and briefs may be diminished, if there were a risk of such deliberations and discussions being publicly released; and
- disclosure would reasonably be expected to prejudice the protection of one or more individuals' right to privacy.

After careful consideration of all relevant factors, I consider the public interest against disclosure outweighs the public interest for disclosure.

I am therefore satisfied that disclosing the conditionally exempt information in the documents would, on balance, be contrary to the public interest.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

⁵ FOI Guidelines, [6.22].

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Yours sincerely

s 47F

A large grey rectangular redaction box covering the signature area.

s 47F

Acting First Assistant Secretary
Government Division

15 March 2021

From: s 47F
To: s 47F
Cc: FOI; s 47F s47F s 47F
Subject: For SF approval by 14 April - two FOI internal reviews [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 7 April 2021 3:22:58 PM
Attachments: [FOI 2020 003IR Internal review decision.docx](#)
[FOI2021 003 Documents Marked up.pdf](#)
s 22(1)(a)(ii)
[image001.png](#)
[image002.png](#)

OFFICIAL: Sensitive

Hi s 47F

I've got two FOI Internal Review decisions I need noted by the Deputy Secretary in the next few days (not due for another week). In both cases, I am **affirming a primary decision** of s 47F and not releasing any more information. Both relate to s 47F and the Humanitarian Overseas Service Medal. In my view, there are no particular sensitivities involved.

003IR

On 13 January 2021, s 47F made an FOI request in the following terms:

We seek a copy of s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

On 15 March 2021, the Department notified the applicant of the primary decision made by s 47F who identified nine relevant documents and exempted the documents in full from release under s 47F of the FOI Act (personal privacy).

On 17 March 2021, the applicant sought internal review of the Department's decision.

The Department has consulted s 47F at both the primary and internal review decision making stages, and on both occasions s 47F has objected to disclosure of the requested documents.

I propose affirming the primary decision to exempt, in full, the requested documents under section 47F of the FOI Act (personal privacy).

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Cheers,

s 47F

s 47F **PSM** | First Assistant Secretary

Government Division

Department of the Prime Minister and Cabinet

p. s 47F | m. s 47F

e. s 47F [pmc.gov.au](mailto:s 47F@pmc.gov.au) | w. www.pmc.gov.au

One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2021/003IR

INTERNAL REVIEW DECISION AND REASONS UNDER SECTION 54 OF *THE FREEDOM OF INFORMATION ACT 1982*

REQUEST BY: [REDACTED] s 47F

DECISION BY: [REDACTED] s 47F PSM
First Assistant Secretary
Government Division

By email: [REDACTED] s 47F

Dear [REDACTED] s 47F

I refer to your email of 17 March 2021 in which you requested internal review of the decision (the **primary decision**) dated 15 March 2021 by [REDACTED] s 47F Acting First Assistant Secretary, Government Division, Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

Authorised decision maker

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision. I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

In reaching my decision I have had regard to:

- your FOI request of 13 January 2021;
- the primary decision;
- your request for internal review;

- comments received from a third party in response to a consultations under section 27A of the FOI Act, undertaken at the primary decision-making stage;
- comments received from the same third party in response to under section 27A of the FOI Act, undertaken at the internal review decision-making stage;
- the ‘Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*’ (the **FOI Guidelines**).

Background

The FOI request

On 13 January 2021, you made a request under the FOI Act to the Department in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

The primary decision

On 15 March 2021, the Department notified you of the primary decision on your FOI request.

The decision-maker identified 9 documents relevant to your FOI request.

The decision-maker decided to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

The internal review request

On 17 March 2021, your requested internal review in the following terms:

We ask for an internal review of the decision to withhold all of the information contained in the documents. We contend that the release of some of the information is both possible and reasonable in the circumstances. As always, we do not seek individuals names.

We would be grateful if you would consider the points following:

1. *The extent to which the information is well known.*

The documents relate to the Australian contingent to GE's humanitarian operation in Banda Aceh. The contingent's composition, roles and activities are described in detail in Mr Keith Fennel's memoir titled "Warrior Brothers: my life in the Australian SAS". Mr Fennel was a member of the Australian continent. His memoir was listed on Australia's best sellers list for some time and it has enjoyed wide readership in Australia and internationally.

2. *The availability of the information from public accessible sources*

As noted, some of the information is described in a personal memoir. It was published over 12 years ago and was a best seller in Australia. Throughout that time, the information remained readily available from public accessible sources including walk in book stores, local and state libraries, online sources (audiobook and ebook). The information is very easy to obtain.

3. *Any other matters that the agency or Minister considers relevant.*

s 47F had a duty to provide comprehensive advice to government regarding the HOSM. The Department's 2009 assessment omits significant materially relevant information. s 47F may not have advised Government that GE engaged a commercial organisation to deploy security contractors to protect their staff and enable their humanitarian operation in Banda Aceh. I spoke with s 47F on these points after the contingent's eligibility was publicly gazetted

4. *Whether disclosure of the information might advance the public interest in government transparency and integrity*

Mr Fennel's description of the Australian contingent's composition is materially different to the advice s 47F provided the Government in document B09/1640. Why this is the case is unclear and disclosure will advance the public interest in government transparency and integrity.

4. *Likely use or dissemination of the information*

The disclosed information will inform ongoing discussions with Members of Parliament and several Federal Representatives.

Reasons

In undertaking this internal review the Department has consulted the same individual consulted at the primary decision making stage regarding possible disclosure of their personal information. The individual has again objected to the disclosure of their personal information.

I have considered your submissions in support of your request for internal review, however I agree with the findings and reasons in the primary decision.

I have therefore decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely

s 47F PSM
First Assistant Secretary
Government Division

April 2021

From: s 47F
To: s 47F
Cc: FOI
Subject: For approval by Friday, 9 April 2021 - FOI/2021/003IR - s 47F - Internal review decision [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 7 April 2021 2:07:18 PM
Attachments: [image005.png](#)
[FOI-2020-003IR - Internal review decision.docx](#)
[FOI-2021-003 - Documents - Marked-up.pdf](#)

OFFICIAL: Sensitive

Hi s 47F

Please find **attached** the draft internal review decision.

The decision is due to the applicant by **Friday, 16 April 2021**.

Next steps:

- Please review the draft internal review decision.
- If you do not require any changes to the decision, please send a 'for noting' email to s 47F Deputy Secretary Governance (please cc s 47F pmc.gov.au, s 47F pmc.gov.au, s 47F @pmc.gov.au, and foi@pmc.gov.au). A draft email for you to use is below and please adjust the yellow highlighted material as you consider necessary. Please use the subject line **For noting – FOI/2021/003IR – Internal review decision**.
- Once s 47F notes your proposed decision, the FOI Section will send a 'for noting' email to the PMO.
- After the PMO has noted the decision, I will affix your electronic signature to the internal review decision before sending to the applicant.

Happy to discuss.

Regards

s 47F | Adviser
 FOI and Privacy Section | Legal Policy Branch
 Government Division | Department of the Prime Minister and Cabinet
 p. s 47F | m. s 47F
 e. s 47F pmc.gov.au | w. www.pmc.gov.au
 One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

Draft

Dear s 47F

I would be grateful if you could please note my proposed internal review decision (**attached**).

The decision is due to the FOI applicant by **Friday, 16 April 2021**.

Scope of the FOI request

On 13 January 2021, [s 47F] made an FOI request to the Department in the following terms:

We seek a copy of [s 47F] correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

The primary decision

-

On 15 March 2021, the Department notified the applicant of the primary decision on the FOI request.

The primary decision was made by [s 47F] Acting First Assistant Secretary, Government Division.

The decision-maker identified 9 documents (the **requested documents**) relevant the FOI request and exempted the documents in full from release under s 47F of the FOI Act (personal privacy).

Request for internal review

On 17 March 2021, the applicant sought internal review of the Department's decision.

Consultation

-

The Department has consulted [s 47F] at the primary and internal review decision making stages, and on both occasions [s 47F] has objected to disclosure of the requested documents.

My proposed internal review decision

I propose affirming the primary decision to exempt, in full, the requested documents under section 47F of the FOI Act (personal privacy).

Sensitivities

I am not aware of any sensitivities regarding my proposed decision.

Regards



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2021/003IR

INTERNAL REVIEW DECISION AND REASONS UNDER SECTION 54 OF *THE FREEDOM OF INFORMATION ACT 1982*

REQUEST BY: [REDACTED] s 47F

DECISION BY: [REDACTED] s 47F PSM
First Assistant Secretary
Government Division

By email: [REDACTED] s 47F

Dear [REDACTED] s 47F

I refer to your email of 17 March 2021 in which you requested internal review of the decision (the **primary decision**) dated 15 March 2021 by [REDACTED] s 47F Acting First Assistant Secretary, Government Division, Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

Authorised decision maker

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision. I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

In reaching my decision I have had regard to:

- your FOI request of 13 January 2021;
- the primary decision;
- your request for internal review;

- comments received from a third party in response to a consultations under section 27A of the FOI Act, undertaken at the primary decision-making stage;
- comments received from the same third party in response to under section 27A of the FOI Act, undertaken at the internal review decision-making stage;
- the ‘Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*’ (the **FOI Guidelines**).

Background

The FOI request

On 13 January 2021, you made a request under the FOI Act to the Department in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

The primary decision

On 15 March 2021, the Department notified you of the primary decision on your FOI request.

The decision-maker identified 9 documents relevant to your FOI request.

The decision-maker decided to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

The internal review request

On 17 March 2021, your requested internal review in the following terms:

We ask for an internal review of the decision to withhold all of the information contained in the documents. We contend that the release of some of the information is both possible and reasonable in the circumstances. As always, we do not seek individuals names.

We would be grateful if you would consider the points following:

1. *The extent to which the information is well known.*

The documents relate to the Australian contingent to GE's humanitarian operation in Banda Aceh. The contingent's composition, roles and activities are described in detail in Mr Keith Fennel's memoir titled "Warrior Brothers: my life in the Australian SAS". Mr Fennel was a member of the Australian continent. His memoir was listed on Australia's best sellers list for some time and it has enjoyed wide readership in Australia and internationally.

2. *The availability of the information from public accessible sources*

As noted, some of the information is described in a personal memoir. It was published over 12 years ago and was a best seller in Australia. Throughout that time, the information remained readily available from public accessible sources including walk in book stores, local and state libraries, online sources (audiobook and ebook). The information is very easy to obtain.

3. *Any other matters that the agency or Minister considers relevant.*

s 47F had a duty to provide comprehensive advice to government regarding the HOSM. The Department's 2009 assessment omits significant materially relevant information. s 47F may not have advised Government that GE engaged a commercial organisation to deploy security contractors to protect their staff and enable their humanitarian operation in Banda Aceh. I spoke with s 47F on these points after the contingent's eligibility was publicly gazetted

4. *Whether disclosure of the information might advance the public interest in government transparency and integrity*

Mr Fennel's description of the Australian contingent's composition is materially different to the advice s 47F provided the Government in document B09/1640. Why this is the case is unclear and disclosure will advance the public interest in government transparency and integrity.

4. *Likely use or dissemination of the information*

The disclosed information will inform ongoing discussions with Members of Parliament and several Federal Representatives.

Reasons

In undertaking this internal review the Department has consulted the same individual consulted at the primary decision making stage regarding possible disclosure of their personal information. The individual has again objected to the disclosure of their personal information.

I have considered your submissions in support of your request for internal review, however I agree with the findings and reasons in the primary decision.

I have therefore decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely

s 47F PSM
First Assistant Secretary
Government Division

April 2021

From: s 47F
To: s 47F
Cc: FOI; s 47F s 47F s 47F
Subject: RE: For SF approval by 14 April - two FOI internal reviews [SEC=OFFICIAL:Sensitive]
Date: Friday, 9 April 2021 11:07:28 AM
Attachments: [image001.png](#)
[image002.png](#)

OFFICIAL: Sensitive

Hi s 47F

s 47F has noted the decisions.

Thank you

s 47F

s 47F | Executive Officer to s 47F PSM
 p. s 47F | m. s 47F

From: s 47F <s 47F@pmc.gov.au>
Sent: Wednesday, 7 April 2021 3:23 PM
To: s 47F s 47F @pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>; s 47F s 47F pmc.gov.au>; s 47F
 <s 47F@pmc.gov.au>; s 47F s 47F pmc.gov.au>
Subject: For SF approval by 14 April - two FOI internal reviews [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 47F

I've got two FOI Internal Review decisions I need noted by the Deputy Secretary in the next few days (not due for another week). In both cases, I am **affirming a primary decision** of s 47F and not releasing any more information. Both relate to s 47F and the Humanitarian Overseas Service Medal. In my view, there are no particular sensitivities involved.

003IR

On 13 January 2021, s 47F made an FOI request in the following terms:

We seek a copy of s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

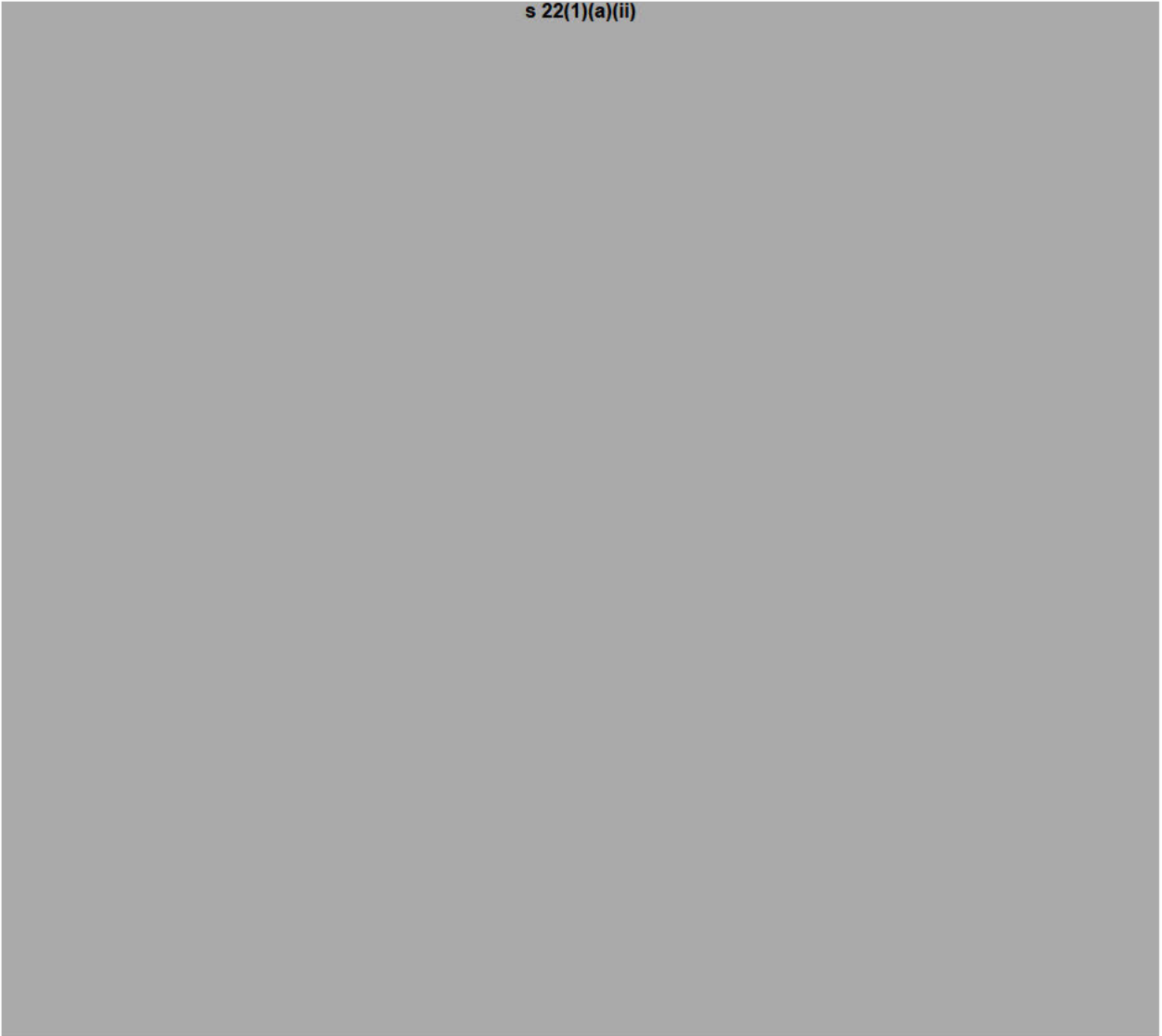
On 15 March 2021, the Department notified the applicant of the primary decision made by s 47F who identified nine relevant documents and exempted the documents in full from release under s 47F of the FOI Act (personal privacy).

On 17 March 2021, the applicant sought internal review of the Department's decision.

The Department has consulted s 47F at both the primary and internal review decision making stages, and on both occasions s 47F has objected to disclosure of the requested documents.

I propose affirming the primary decision to exempt, in full, the requested documents under section 47F of the FOI Act (personal privacy).

s 22(1)(a)(ii)



Cheers,
s 47F

s 47F **PSM** | First Assistant Secretary

Government Division

Department of the Prime Minister and Cabinet

p. s 47F | m. s 47F

e. s 47F [pmc.gov.au](mailto:s 47F@pmc.gov.au) | w. www.pmc.gov.au

One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



PRIDE
CHAMPION



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: s 47F
To: FOI
Cc: s 47F s 47F s 47F s 47F s 47F PMC Media; PMO - Senior Media Team
Subject: RE: Correction - For noting by Thu 15 April 2021 – FOI/2021/003IR – s 47F - Correspondence from s 47F relating to the Australian contingent to GE humanitarian operation in Banda Aceh [SEC=OFFICIAL]
Date: Monday, 12 April 2021 9:24:15 PM
Attachments: image005.png

OFFICIAL

Noted.

From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, 12 April 2021 5:58 PM
To: s 47F <s 47F pm.gov.au>
Cc: s 47F <s 47F pm.gov.au>; s 47F <s 47F pm.gov.au>; s 47F <s 47F pmc.gov.au>; s 47F <s 47F pmc.gov.au>; s 47F <s 47F pmc.gov.au>; PMC Media <xxxxx@xxx.xxx.xx>; PMO - Senior Media Team <xxxxxxxxxxxxxxxx@xx.xxx.xx>; FOI <xxx@xxx.xxx.xx>
Subject: Correction - For noting by Thu 15 April 2021 – FOI/2021/003IR – s 47F - Correspondence from s 47F relating to the Australian contingent to GE humanitarian operation in Banda Aceh [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

I apologise for any confusion, however the due date for noting this decision is **Thursday, 15 April 2021** (not 15 March 2021 as stated in my email below).

Regards

s 47F | Adviser
 FOI and Privacy Section | Legal Policy Branch
 Government Division | Department of the Prime Minister and Cabinet
 p. s 47F | m. s 47F
 e. s 47F pmc.gov.au | w. www.pmc.gov.au
 One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: FOI
Sent: Monday, 12 April 2021 2:42 PM
To: s 47F <s 47F pm.gov.au>
Cc: s 47F <s 47F pm.gov.au>; s 47F <s 47F pm.gov.au>; s 47F

s 47F < s 47F pmc.gov.au>; s 47F < s 47F pmc.gov.au>; s 47F
 < s 47F pmc.gov.au>; PMC Media <xxxxx@xxx.xxx.xx >; PMO - Senior Media
 Team <xxxxxxxxxxxxxxxx@xx.xxx.xx >; FOI <xxx@xxx.xxx.xx >

Subject: For noting by Thu 15 Mar 2021 – FOI/2021/003IR – s 47F - Correspondence
 from s 47F relating to the Australian contingent to GE humanitarian operation in Banda
 Aceh [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

We would be grateful if you could please note the proposed FOI internal review decision for
 FOI/2021/003IR (**attached**) by s 47F First Assistant Secretary, Government Division.

The decision maker proposes to affirm the primary decision and therefore no material is proposed
 for release.

Please respond by **Thursday, 15 March 2021**.

Scope of the FOI request

On 13 January 2021, s 47F made an FOI request in the following terms:

*We seek a copy of s 47F correspondence, submissions and statements relating
 to the Australian contingent to General Electric humanitarian operation in Banda Aceh.*

Primary decision

On 15 March 2021, the Department notified the applicant of the primary decision made by s
 47F then Acting First Assistant Secretary, Government Division, who identified nine F
 relevant documents and exempted the documents in full from release under s 47F of the FOI Act
 (personal privacy).

Internal review request

On 17 March 2021, the applicant sought internal review of the Department's decision.

Consultation

The Department has consulted s 47F at both the primary and internal review decision
 making stages, and on both occasions s 47F has objected to disclosure of the requested
 documents.

Proposed internal review decision

The decision maker propose affirming the primary decision to exempt, in full, the requested
 documents under section 47F of the FOI Act (personal privacy).

Sensitivities

In the decision maker's view, there are no particular sensitivities involved.

Should you require more information, please contact me.

Regards

s 47F | Adviser
FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. **s 47F** | m. **s 47F**
e. **s 47F** pmc.gov.au | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: [FOI](#)
To: s 47F
Cc: s 47F, s 47F, s 47F, s 47F, s 47F, [PMC Media](#); [PMO - Senior Media Team](#); [FOI](#)
Subject: For noting by Thu 15 Mar 2021 – FOI/2021/003IR – s 47F - Correspondence from s 47F relating to the Australian contingent to GE humanitarian operation in Banda Aceh [SEC=OFFICIAL]
Date: Monday, 12 April 2021 2:42:22 PM
Attachments: [FOI-2020-003IR - Internal review decision.docx](#)
[FOI-2021-003 - Documents - Marked-up.pdf](#)
[image005.png](#)

OFFICIAL

Dear s 47F

We would be grateful if you could please note the proposed FOI internal review decision for FOI/2021/003IR (**attached**) by s 47F First Assistant Secretary, Government Division.

The decision maker proposes to affirm the primary decision and therefore no material is proposed for release.

Please respond by **Thursday, 15 March 2021**.

Scope of the FOI request

On 13 January 2021, s 47F made an FOI request in the following terms:

We seek a copy of s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

Primary decision

On 15 March 2021, the Department notified the applicant of the primary decision made by s 47F then Acting First Assistant Secretary, Government Division, who identified nine F relevant documents and exempted the documents in full from release under s 47F of the FOI Act (personal privacy).

Internal review request

On 17 March 2021, the applicant sought internal review of the Department's decision.

Consultation

The Department has consulted s 47F at both the primary and internal review decision making stages, and on both occasions s 47F has objected to disclosure of the requested documents.

Proposed internal review decision

The decision maker propose affirming the primary decision to exempt, in full, the requested documents under section 47F of the FOI Act (personal privacy).

Sensitivities

In the decision maker's view, there are no particular sensitivities involved.

Should you require more information, please contact me.

Regards

s 47F | Adviser
FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. **s 47F** | m. **s 47F**
e. **s 47F** pmc.gov.au | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2021/003IR

INTERNAL REVIEW DECISION AND REASONS UNDER SECTION 54 OF *THE FREEDOM OF INFORMATION ACT 1982*

REQUEST BY: [REDACTED] s 47F

DECISION BY: [REDACTED] s 47F PSM
First Assistant Secretary
Government Division

By email: [REDACTED] s 47F

Dear [REDACTED] s 47F

I refer to your email of 17 March 2021 in which you requested internal review of the decision (the **primary decision**) dated 15 March 2021 by [REDACTED] s 47F Acting First Assistant Secretary, Government Division, Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

Authorised decision maker

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision. I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

In reaching my decision I have had regard to:

- your FOI request of 13 January 2021;
- the primary decision;
- your request for internal review;

- comments received from a third party in response to a consultations under section 27A of the FOI Act, undertaken at the primary decision-making stage;
- comments received from the same third party in response to under section 27A of the FOI Act, undertaken at the internal review decision-making stage;
- the ‘Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*’ (the **FOI Guidelines**).

Background

The FOI request

On 13 January 2021, you made a request under the FOI Act to the Department in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

The primary decision

On 15 March 2021, the Department notified you of the primary decision on your FOI request.

The decision-maker identified 9 documents relevant to your FOI request.

The decision-maker decided to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

The internal review request

On 17 March 2021, your requested internal review in the following terms:

We ask for an internal review of the decision to withhold all of the information contained in the documents. We contend that the release of some of the information is both possible and reasonable in the circumstances. As always, we do not seek individuals names.

We would be grateful if you would consider the points following:

- 1. The extent to which the information is well known.*

The documents relate to the Australian contingent to GE's humanitarian operation in Banda Aceh. The contingent's composition, roles and activities are described in detail in Mr Keith Fennel's memoir titled "Warrior Brothers: my life in the Australian SAS". Mr Fennel was a member of the Australian continent. His memoir was listed on Australia's best sellers list for some time and it has enjoyed wide readership in Australia and internationally.

- 2. The availability of the information from public accessible sources*

As noted, some of the information is described in a personal memoir. It was published over 12 years ago and was a best seller in Australia. Throughout that time, the information remained readily available from public accessible sources including walk in book stores, local and state libraries, online sources (audiobook and ebook). The information is very easy to obtain.

3. Any other matters that the agency or Minister considers relevant.

s 47F had a duty to provide comprehensive advice to government regarding the HOSM. The Department's 2009 assessment omits significant materially relevant information. s 47F may not have advised Government that GE engaged a commercial organisation to deploy security contractors to protect their staff and enable their humanitarian operation in Banda Aceh. I spoke with s 47F on these points after the contingent's eligibility was publicly gazetted

4. Whether disclosure of the information might advance the public interest in government transparency and integrity

Mr Fennel's description of the Australian contingent's composition is materially different to the advice s 47F provided the Government in document B09/1640. Why this is the case is unclear and disclosure will advance the public interest in government transparency and integrity.

4. Likely use or dissemination of the information

The disclosed information will inform ongoing discussions with Members of Parliament and several Federal Representatives.

Reasons

In undertaking this internal review the Department has consulted the same individual consulted at the primary decision making stage regarding possible disclosure of their personal information. The individual has again objected to the disclosure of their personal information.

I have considered your submissions in support of your request for internal review, however I agree with the findings and reasons in the primary decision.

I have therefore decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely

s 47F PSM
First Assistant Secretary
Government Division

April 2021

From: s 47F
To: FOI
Subject: Re: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]
Date: Tuesday, 13 April 2021 12:41:20 PM

Thank you

On 13 Apr 2021, at 09:23, FOI <foi@pmc.gov.au> wrote:

OFFICIAL

Dear s 47F

Please find attached the internal review decision on your request under the *Freedom of Information Act 1982* to the Department of the Prime Minister and Cabinet.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. foi@pmc.gov.au | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
<[image001.jpg](#)><[image002.jpg](#)><[image003.jpg](#)><[image004.jpg](#)>
<[image005.png](#)>

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

<FOI-2021-003IR - Internal review decision.pdf>

From: [FOI](#)
To: s 47F
Cc: [FOI](#)
Subject: FW: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]
Date: Tuesday, 13 April 2021 11:29:12 AM
Attachments: [image005.png](#)
[FOI-2021-003IR - Internal review decision.pdf](#)

OFFICIAL

Hi s 47F

For information, this internal review decision has been sent to the applicant.

Regards

s 47F | Adviser
FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. s 47F | m. s 47F
e. s 47F pmc.gov.au | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: FOI <xxx@xxx.xxx.xx>
Sent: Tuesday, 13 April 2021 11:24 AM
To: s 47F <s 47F>
Cc: FOI <xxx@xxx.xxx.xx>
Subject: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

Please find attached the internal review decision on your request under the *Freedom of Information Act 1982* to the Department of the Prime Minister and Cabinet.

Yours sincerely

FOI and Privacy Section | Legal Policy Branch
Government Division | Department of the Prime Minister and Cabinet
p. (02) 6271 5849
e. xxx@xxx.xxx.xx | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600





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Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2021/003IR

INTERNAL REVIEW DECISION AND REASONS UNDER SECTION 54 OF *THE FREEDOM OF INFORMATION ACT 1982*

REQUEST BY: [REDACTED] s 47F

DECISION BY: [REDACTED] s 47F PSM
First Assistant Secretary
Government Division

By email: [REDACTED] s 47F

Dear [REDACTED] s 47F

I refer to your email of 17 March 2021 in which you requested internal review of the decision (the **primary decision**) dated 15 March 2021 by [REDACTED] s 47F Acting First Assistant Secretary, Government Division, Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

Authorised decision maker

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision. I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

In reaching my decision I have had regard to:

- your FOI request of 13 January 2021;
- the primary decision;
- your request for internal review;

- comments received from a third party in response to a consultations under section 27A of the FOI Act, undertaken at the primary decision-making stage;
- comments received from the same third party in response to under section 27A of the FOI Act, undertaken at the internal review decision-making stage;
- the ‘Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*’ (the **FOI Guidelines**).

Background

The FOI request

On 13 January 2021, you made a request under the FOI Act to the Department in the following terms:

We seek a copy of [REDACTED] s 47F correspondence, submissions and statements relating to the Australian contingent to General Electric humanitarian operation in Banda Aceh.

The primary decision

On 15 March 2021, the Department notified you of the primary decision on your FOI request.

The decision-maker identified 9 documents relevant to your FOI request.

The decision-maker decided to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

The internal review request

On 17 March 2021, your requested internal review in the following terms:

We ask for an internal review of the decision to withhold all of the information contained in the documents. We contend that the release of some of the information is both possible and reasonable in the circumstances. As always, we do not seek individuals names.

We would be grateful if you would consider the points following:

1. The extent to which the information is well known.

The documents relate to the Australian contingent to GE's humanitarian operation in Banda Aceh. The contingent's composition, roles and activities are described in detail in Mr Keith Fennel's memoir titled "Warrior Brothers: my life in the Australian SAS". Mr Fennel was a member of the Australian continent. His memoir was listed on Australia's best sellers list for some time and it has enjoyed wide readership in Australia and internationally.

2. The availability of the information from public accessible sources

As noted, some of the information is described in a personal memoir. It was published over 12 years ago and was a best seller in Australia. Throughout that time, the information remained readily available from public accessible sources including walk in book stores, local and state libraries, online sources (audiobook and ebook). The information is very easy to obtain.

3. Any other matters that the agency or Minister considers relevant.

s 47F had a duty to provide comprehensive advice to government regarding the HOSM. The Department's 2009 assessment omits significant materially relevant information. s 47F may not have advised Government that GE engaged a commercial organisation to deploy security contractors to protect their staff and enable their humanitarian operation in Banda Aceh. I spoke with s 47F on these points after the contingent's eligibility was publicly gazetted

4. Whether disclosure of the information might advance the public interest in government transparency and integrity

Mr Fennel's description of the Australian contingent's composition is materially different to the advice s 47F provided the Government in document B09/1640. Why this is the case is unclear and disclosure will advance the public interest in government transparency and integrity.

4. Likely use or dissemination of the information

The disclosed information will inform ongoing discussions with Members of Parliament and several Federal Representatives.

Reasons

In undertaking this internal review the Department has consulted the same individual consulted at the primary decision making stage regarding possible disclosure of their personal information. The individual has again objected to the disclosure of their personal information.

I have considered your submissions in support of your request for internal review, however I agree with the findings and reasons in the primary decision.

I have therefore decided to affirm the primary decision to exempt, in full, from disclosure the documents relevant to your FOI request on the grounds that they are conditionally exempt under section 47F of the FOI Act and that disclosure would, on balance, be contrary to the public interest.

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Yours sincerely

s 47F



s 47F

PSM
First Assistant Secretary
Government Division

13 April 2021

From: [FOI](#)
To: s 47F
Cc: [FOI](#)
Subject: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]
Date: Tuesday, 13 April 2021 11:23:40 AM
Attachments: [image005.png](#)
[FOI-2021-003IR - Internal review decision.pdf](#)

OFFICIAL

Dear s 47F

Please find attached the internal review decision on your request under the *Freedom of Information Act 1982* to the Department of the Prime Minister and Cabinet.

Yours sincerely

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Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2021/003IR

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Government Division

By email: [REDACTED] s 47F

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Yours sincerely

s 47F



s 47F

PSM
First Assistant Secretary
Government Division

13 April 2021

From: [Microsoft Outlook](#)
To: [FOI](#)
Subject: Delivered: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:43 PM
Attachments: [PMC FOI request FOI2021003IR - Internal review decision SECOFFICIAL.msg](#)

Your message has been delivered to the following recipients:

FOI (~~@~~ ~~xx~~ <mailto:~~@~~ ~~xx~~>

Subject: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]

From: [Microsoft Outlook](#)
To: s 47F
Subject: Relayed: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]
Date: Friday, 20 September 2024 12:57:43 PM
Attachments: [PMC FOI request FOI2021003IR - Internal review decision SECOFFICIAL.msg](#)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s 47F (s 47F <mailto:s 47F>
Subject: PM&C FOI request FOI/2021/003IR - Internal review decision [SEC=OFFICIAL]