



Ref: FOI 24-66 (CR/Right to Know)

6 December 2024

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CR (Right to Know)

By email: [foi+request-12038-7087e627@righttoknow.org.au](mailto:foi+request-12038-7087e627@righttoknow.org.au)

Dear CR

## FOI 24-66 - Decision on Access

I refer to your request made under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) to Airservices Australia (**Airservices**) on 9 September 2024.

Your application scope sought access to documents, as follows:

*On 31 August 2024, a Royal Australian Air Force F/A-18F Super Hornet, a C-17A Globemaster III, and two Australian Army Tiger armed reconnaissance helicopters conducted flypasts and flying displays as part of the Brisbane Festival Riverfire event.*

*The ADF also conducted practice flights for this event on 29 and 30 August 2024.*

*I request access to the following documents under the Freedom of Information Act 1982:*

- 1. All clearance and approval documents granted for this event and practice runs.*
- 2. Safety and operational guidelines that were in place for the event and practice runs.*

## Decision

I am authorised under section 23 of the FOI Act and the Airservices Instrument of Delegation and Authorisation to make decisions on primary requests under the FOI Act.

### *Due date*

I note that the due date for your decision is **6 December 2024**.

I confirm the original due date for your decision was 9 October 2024. The processing period was initially extended by 30 days to allow for third-party consultation, in accordance with ss. 15(6) and 27 of the FOI Act. The initial extended due date of 8 November 2024 was extended again, twice, with your agreement in accordance with s. 15AA of the FOI Act, as per your emails sent on 6 November 2024 and 21 November 2024. The agreed new due date is 6 December 2024.

### *Access in part*

I have identified three documents that fall within the scope of your request.

I have decided to provide you partial access to these documents as they contain material that is:

- Conditionally exempt under section 47F (personal privacy) of the FOI Act, as disclosure of the material would be contrary to the public interest.
- Conditionally exempt under section 47E(d) (certain operations of agencies) of the FOI Act, as disclosure of the material would be contrary to the public interest.

The documents and my decision in relation to them are set out in the Schedule of Documents at **Attachment A** (the Schedule).

The reasons for my decision are set out in the Statement of Reasons at **Attachment B**.

### **Review rights and complaints**

Information about your rights of review and how you can make a complaint about the handling of your request is at **Attachment C**.

### **Contact**

If you wish to discuss my decision, please contact me at [foi@airservicesaustralia.com](mailto:foi@airservicesaustralia.com).

Yours sincerely

*Saira*



**Saira Khan**  
Delegated FOI Decision Maker

## SCHEDULE OF DOCUMENTS: FOI 24-66 (CR/Right to Know)

No.	Pages	Description	Decision
1.	1-2	<b>Airspace Change Assurance Checklist</b> <i>Brisbane – Riverfire Display 2024</i> 18 July 2024	<b>Release in part</b> <ul style="list-style-type: none"> <li>Section 47F – personal privacy (name of Airservices staff)</li> </ul>
2.	3-15	<b>Temporary Local Instruction TLI_24_0231</b> <i>Riverfire 2024</i> 24 August 2024	<b>Release in part</b> <ul style="list-style-type: none"> <li>Section 47F – personal privacy (name and position title of Airservices staff)</li> </ul>
3.	16-77	<b>Various emails relating to safety, guidelines and approvals for the event and practice runs</b> <i>Riverfire 2024</i> Various dates	<b>Release in part</b> <ul style="list-style-type: none"> <li>Section 47F – personal privacy (name, position title and contact details of Airservices, Defence and Brisbane Festival staff)</li> <li>Section 47E(d) – certain operations of agencies (group email addresses of Defence teams)</li> </ul>

## STATEMENT OF REASONS

### Material on which the decision is based

I relied on the following material in coming to this decision:

- the terms of the request
- the documents subject to the FOI request
- advice from subject matter specialists in our Air Traffic Management team within Airservices regarding the nature and sensitivity of the documents subject to the request
- responses from third parties consulted as part of the processing of the request
- the FOI Act
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

### Section 47F - personal privacy

Section 47F 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.

A public servant's name (i.e. including Commonwealth entity staff), and information about where they work and how they can be contacted, is personal information. It is information about an identified individual, or an individual who is reasonably identifiable (see section 6 of the *Privacy Act 1988*).

I am satisfied that Documents 1-3 identified in the Schedule at **Attachment A** contain conditionally exempt information under section 47F of the FOI Act, specifically: names, position titles and contact details of Airservices, Defence and Brisbane Festival staff members.

Section 47F(2) of the FOI Act provides that in determining whether the disclosure of a 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/s 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
- any other matters that the agency considers relevant.

I am satisfied that Documents 1-3 contain 'personal information' for the purposes of the FOI Act. I am satisfied that the disclosure of this personal information would be unreasonable, on the basis that:

- the names of persons identified in the document are not well-known, nor are they available from publicly accessible sources.

Accordingly, I am satisfied that the relevant personal information is conditionally exempt under section 47F(1) of the FOI Act.

### *Application of the public interest test*

Section 11A(5) of the FOI Act provides:

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

I have therefore considered whether access to the conditionally exempt information would, on balance, be contrary to the public interest.

Section 11B(3) of the FOI Act sets out the public interest factors that favour access to information, namely, would the disclosure:

- promote the objects of the FOI Act (including all matters set out in sections 3 and 3A of the FOI Act)
- inform debate on a matter of public importance
- promote effective oversight of public expenditure
- allow a person to access his or her own personal information.

In relation to these factors, I consider that disclosure of the conditionally exempt information would:

- help to promote the objects of the FOI Act by demonstrating transparency of government processes.

However, I consider that the following factors weigh against disclosure of the conditionally exempt information:

- providing access to this personal information would intrude on the privacy of the individuals to whom the personal information relates, while also not providing any additional insight into relevant decision-making processes at Airservices.

After considering the public interest factor(s) favouring disclosure, and the factor(s) against disclosure, I consider that the factor(s) against disclosure outweigh the factor(s) favouring disclosure, and that disclosure of the conditionally exempt information would, on balance, be contrary to the public interest.

I am therefore satisfied that Documents 1-3 contain conditionally exempt information under section 47F(1) of the FOI Act. I have therefore provided you access to these documents by redacting the conditionally exempt information.

For completeness, I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

### **Section 47E(d) – certain operations of agencies**

Section 47E(d) of the FOI Act conditionally exempts documents which, if released would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of operations of agencies.

The group email addresses of the Defence teams that have been identified and redacted in the release documents are used for official correspondence and internal communications only. They are not suitable to be released to the general public. Defence has established procedures to direct correspondence from members of the public through specific channels to ensure that workflows can be controlled and managed. Releasing contact details for group email addresses specifically used for official correspondence and internal communications only would interfere with the procedures that are in place, and would therefore have a substantial adverse effect on the operations of the relevant teams, and Defence as a whole.

I am therefore satisfied that Document 3 contains conditionally exempt information under section 47E(d) of the FOI Act. I have therefore provided you access to this document by redacting the conditionally exempt information.

## INFORMATION ON REVIEW RIGHTS

The *Freedom of Information Act 1982* (the **FOI Act**) gives you the right to apply for a review of this decision via:

- (a) an internal review; or
- (b) the Australian Information Commissioner (**Information Commissioner**).

### Internal review

If you apply for internal review, it will be carried out by a different decision-maker who will make a fresh decision on your application. An application for review must be:

- (a) made in writing;
- (b) made within 30 days of receiving this letter; and
- (c) sent to [foi@airservicesaustralia.com](mailto:foi@airservicesaustralia.com).

No particular form is required, but it is desirable to set out in the application the grounds upon which you consider the decision should be reviewed.

If the internal review results in you not being provided access to all of the documents to which you have requested access, you have the right to seek a review of that decision by the Information Commissioner.

### Information Commissioner review

You can opt to instead seek external review by the Information Commissioner. To seek review you must apply to the Information Commissioner within 60 days of the receipt of this decision letter. Further details on this process can be found on their website at <https://www.oaic.gov.au/>.

You will also have the opportunity to seek Information Commissioner review of an Internal Review if you are dissatisfied with its outcome.

## Complaints to the Information Commissioner

### *Information Commissioner*

You may also complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. Further details on this process can be found on their website at <https://www.oaic.gov.au/>.