

28 August 2013

Dear [REDACTED]

Request for access to documents under the *Freedom of Information Act 1982* (the Act)

1. I refer to your request of 28 June 2013 for access to information held by Defence Housing Australia under the *Freedom of Information Act 1982* (Cth).
2. I am an officer authorised under section 23 of the Act to make decisions in respect of requests for access to documents. My decision and the reasons for that decision are set out below.

Background

3. On 28 June 2013 you lodged a Freedom of Information (FOI) request by email. I have extracted the relevant section below:

Evidence has been provided by a number of residents and the body corporate of the complex at which [REDACTED] resides. This includes included statements collected by the [REDACTED]; statements provided by the President and Manager of the body corporate; statements provided by DHA staff; and confirmation from the Albany Creek Police Station that a number of noises complaints have been made against [REDACTED].

4. I acknowledged receipt of this request on 28 June 2013.
5. I wrote to you on 29 July 2013 extending the statutory deadline under section 15(6) of the FOI Act to undertake consultation with a number of third parties.

Legislative background

6. The Act provides a right of access to information in the possession of Commonwealth agencies, limited only by exceptions and exemptions provided for in the Act.

Decision

7. I have identified a total of eighteen documents listed in the attached Schedule of Documents as falling within the scope of your request. My decision for each parameter of your request appears below.
8. I have identified Documents 4, 6, 8, 9, 11 and 17 as falling within the parameters of your request and have decided to release them in full.
9. Documents 2-3, 5, 10, 12-16, and 18 contain personal information for the purposes of section 4 of the FOI Act. I am satisfied that disclosure of this information would amount to an unreasonable disclosure of personal information.

HEAD OFFICE



10. I consider part of Documents 1 and 7 to be out of the scope of your application and irrelevant to your request under section 22 of the FOI Act. I have, therefore decided to release these documents with the relevant information redacted.
11. I have not identified any document within the parameters of your request for records with regards to the confirmation from the Albany Creek Police Station that a number of noise complaints have been made against [REDACTED].

Material on which my findings are based

12. I based my findings on the following material:
 - the content of the identified documents;
 - the relevant provisions of the FOI Act;
 - the guidelines published by the Office of the Australian Information Commission under section 93A of the FOI Act (OAIC Guidelines);
 - advice from DHA staff whose duties relate more closely to the matters referred to in the document; and
 - the content of your FOI request.

Reasons for decision

13. **Section 47F of the *Freedom of Information Act 1982* relevantly provides:**

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
 - (a) the extent to which the information is well known;
 - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
 - (c) the availability of the information from publicly accessible sources;
 - (d) any other matters that the agency or Minister considers relevant.

14. '*Personal information*' is defined in section 4 of the FOI Act as:

'Information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion'

15. Section 11A(5) of the FOI Act requires me to, nevertheless, give the applicant access to the information unless, in the circumstances access to it would at the time and, on balance, be contrary to the public interest. I have weighed the factors for and against the release of this information and decided that it is not in the public interest to release it. The factors affecting my decision include that it is neither well known nor readily available from publicly accessible sources. I consider that there is a public interest in the protection of personal information which was provided to DHA in confidence.
16. Where a decision is made to refuse access to a document, the release of a copy of the document with the exempt matter deleted should be considered under section 22(1) (c) of the FOI Act. Accordingly, I have decided to release a copy of documents 1-3,5,7,10,12-16 and 18 with redactions of the personal information.

Charges

17. I have decided not to impose any charges.

Rights of review

18. If you do not agree with my decision in relation to the release of documents you are entitled to apply for an internal review of the decision and/or an external review by the Australian Information Commissioner. Information on your review rights is at Attachment B.


FOI Disclosure Log

19. In accordance with the requirements of section 11C of the FOI Act, Defence Housing Australia is required to publish, on its website, information released under the FOI Act within 10 working days of the applicant being given access to documents. Defence Housing Australia will also publish the decision notice, with any personal and business information deleted. The information published does not include personal information or the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable. Other information not published also includes that which the Australian Information Commissioner determines is unreasonable to publish.

Further information

20. Please do not hesitate to contact me if you have any questions about this matter.

Yours sincerely



Executive Officer

Attachments:

- A. Schedule of Documents.
- B. FOI Fact Sheet 12 – Freedom of information – Your review rights.