

FOI REQUEST LS5778

Request for access to the following AEC file:

- 2013/00187: FUNDING AND DISCLOSURE - Compliance Audit - Political Parties - National Party of Australia (Federal Secretariat)

SCHEDULE OF DOCUMENTS

Document No.	Description	Date
1	Document No. 1 - File Request Form	25/02/2013
	RECOMMENDATION/DECISION	
	1.1 No exemption applies to Document No. 1.	
	1.2 I recommend that access be given to Document No. 1	
2	Document No. 2 - Notice to produce documentation directed to Ms Susanne Mitchell, Party Agent, National Party of Australia issued by Anna Jurkiewicz, Assistant Director, Funding and Disclosure under Section 316(2A) of the Commonwealth Electoral Act 1918 (the Act).	25/02/13
	RECOMMENDATION/DECISION	
	2.1 Document No. 2 contains personal information to which section 47F of the FOI Act applies, namely the name and a facsimile of the signature of an AEC employee and the name of the Party Agent.	
	2.2 There is no exceptional circumstance to justify withholding the names of the AEC employee and the Party Agent.	

Document No.	Description	Date
	<p>2.3 There is an exceptional circumstance to justify withholding the facsimile of the signature of the AEC employee, namely the risk of harm arising from identity theft being facilitated by giving access to an electronic facsimile of the employee's signature.</p> <p>2.4 I concluded that Document No. 2 was conditionally exempt under section 47F of the FOI Act.</p> <p>Public interest considerations</p> <p>2.5 I am required by subsection 11A(5) of the FOI Act to consider whether, in the circumstances, access to Document No. 2 at any time would, on balance, be contrary to the public interest. This must be done in accordance with section 11B of the FOI Act taking into account the FOI Guidelines.</p> <p>2.6 The factors favouring access to Document No. 2 include whether giving that access:</p> <p>(a) would promote the objects of the FOI Act expressed in its long title and sections 3 and 3A namely the public interest in having access to Document No. 2.</p> <p>Public interest does not mean of interest to the public, but in the interest of the public: see Johansen v City Mutual Life Assurance Society Ltd (1904) 2 CLR 186. I failed to see how the public interest would be served by having access to a facsimile of a person's signature as distinct from knowing that the person had signed Document No. 2.</p> <p>(b) would inform debate on a matter of public importance.</p> <p>The disclosures made under Part XX of the CE Act are the matters that inform debate on a matter of public importance, namely who has by donations in cash or kind to a candidate or party has potential influence on the policies advocated by that candidate or party. In my view the public interest in knowing that the AEC audits compliance with Part XX of the CE Act would be vindicated by knowing that Document No. 2 had been sent without having access to a facsimile of the signature of the person sending Document No. 2.</p> <p>(c) would promote effective oversight of public expenditure.</p>	

Document No.	Description	Date
	<p>This factor is not relevant to the question whether on balance access to Document No. 2 should be given.</p> <p>(d) would allow a person to access his or her own personal information.</p> <p>This factor is not relevant to the question whether on balance access to Document No. 2 should be given.</p> <p>2.7 Subsection 11B(4) of the FOI Act forbids me taking into consideration the following factors in determining whether on balance access to Document No. 2 should be given, namely:</p> <p>(a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;</p> <p>(b) access to the document could result in any person misinterpreting or misunderstanding the document;</p> <p>(c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;</p> <p>(d) access to the document could result in confusion or unnecessary debate.</p> <p>2.8 Accordingly, I excluded these matters from my consideration.</p> <p>2.9 The factors against giving access to Document No. 2 include whether giving that access include the harm to the signatory of Document No. 2 arising from access to a facsimile of that person's signature, namely loss arising from identity theft facilitated by giving access to the signature. I noted that this harm would be exacerbated by giving access to Document No. 2 in electronic form;</p> <p>2.10 That risk is explained at item 2.3 of this entry.</p>	

Document No.	Description	Date
	<p>Consideration whether to offer access to an edited copy</p> <p>2.11 Section 22 of the FOI Act requires me to consider whether it is possible and practicable to prepare an edited copy of Document No. 2 from which any exempt material is redacted.</p> <p>2.12 It is open to me to find that it is possible and practicable to prepare an edited version of Document No. 2 from which is redacted:</p> <p>(a) material out of scope of the FOI Request (irrelevant material); and</p> <p>(b) exempt material.</p> <p>2.13 I found that it is possible to produce a meaningful copy of Document No. 2 given how small the redaction will be that is necessary to remove irrelevant or exempt material.</p> <p>Decision</p> <p>2.14 I have decided to refuse access to Document No. 2 and offer in lieu access to an edited copy of Document No. 2 from which the facsimile of the signature is redacted.</p>	
3	<p>Document No. 3 - Letter from Anna Jurkiewicz, Assistant Director, Funding and Disclosure to Ms Susanne Mitchell, Party agent, National Party of Australia.</p> <p>RECOMMENDATION/DECISION</p> <p>3.1 Document No. 3 contains personal information to which section 47F of the FOI Act applies, namely the name and a facsimile of the signature of an AEC employee.</p> <p>3.2 There is no exceptional circumstance to justify withholding the names of the AEC employee.</p>	25/02/13

Document No.	Description	Date
	<p>3.3 There is an exceptional circumstance to justify withholding the facsimile of the signature of the AEC employee, namely the risk of harm arising from identity theft being facilitated by giving access to an electronic facsimile of the employee's signature.</p> <p>3.4 I concluded that Document No. 3 was conditionally exempt under section 47F of the FOI Act.</p> <p>Public interest considerations</p> <p>3.5 I am required by subsection 11A(5) of the FOI Act to consider whether, in the circumstances, access to Document No. 3 at any time would, on balance, be contrary to the public interest. This must be done in accordance with section 11B of the FOI Act taking into account the FOI Guidelines.</p> <p>3.6 The factors favouring access to Document No. 3 are the same as apply to Document No. 2 as set in item 2.6 of the entry for Document No. 2.</p> <p>3.7 Subsection 11B(4) of the FOI Act forbids me taking into consideration the factors described in item 2.7 of the entry for Document No. 2 in determining whether on balance access to Document No. 3.</p> <p>3.8 Accordingly, I excluded these matters from my consideration.</p> <p>3.9 The factors against giving access to Document No. 3 include whether giving that access include the harm to the signatory of Document No. 3 arising from access to a facsimile of that person's signature, namely loss arising from identity theft facilitated by giving access to the signature. I noted that this harm would be exacerbated by giving access to Document No. 3 in electronic form;</p> <p>3.10 That risk is explained at item 3.3 of this entry.</p> <p>Consideration whether to offer access to an edited copy</p> <p>3.11 Section 22 of the FOI Act requires me to consider whether it is possible and practicable to prepare an edited copy of Document No. 3 from which any exempt material is redacted.</p>	

Document No.	Description	Date
	<p>3.12 It is open to me to find that it is possible and practicable to prepare an edited version of Document No. Error! Reference source not found. from which is redacted:</p> <ul style="list-style-type: none"> (a) material out of scope of the FOI Request (irrelevant material); and (b) exempt material. <p>3.13 I found that it is possible to produce a meaningful copy of Document No. 3 given how small the redaction will be that is necessary to remove irrelevant or exempt material.</p> <p>Decision</p> <p>3.14 I have decided to refuse access to Document No. 3 and offer in lieu access to an edited copy of Document No. 3 from which the facsimile of the signature is redacted.</p>	
4	<p>Document No. 4 - Compliance Review Report – National Party of Australia – June 2013</p> <p>RECOMMENDATION/DECISION</p> <p>4.1 Document No. 4 contains personal information to which section 27A of the FOI Act applies, namely:</p> <ul style="list-style-type: none"> (a) the names of AEC employees; (b) the names of the Party Agent of the National Party of Australia and another representative of the party. <p>4.2 There is no exceptional circumstance to justify withholding the name of the AEC employee.</p> <p>4.3 Similarly, there is no exceptional circumstance to justify withholding the names of the party's Party Agent and other representative.</p>	3/06/13

Business Information

- 4.4 Document No. 4 contains business information to which section 27 of the FOI Act applies, namely information concerning the business, commercial or financial affairs of an organisation, namely:
- (a) the National Party of Australia; and
 - (b) John McEwan House Pty Ltd.
- 4.5 The AEC consulted the organisations specified in item 4.4 in accordance with an undertaking to political parties and their associated entities that they will be consulted about any FOI Requests relating to their disclosure obligations under Part XX of the CE Act.
- 4.6 No contentions were received opposing giving access to Document No. 4.
- 4.7 I concluded that it was unreasonable to give access to the business information thereby finding that the Document No. 4 was conditionally exempt.
- 4.8 I turned my mind to whether the public interest factors favouring giving access to Document No. 4 outweighed the public interest factors against giving that access.
- 4.9 Having found that Document No. 4 was conditionally exempt, I:
- (a) had regard to:
 - (i) the objects of the FOI Act, specifically the long title and sections 3 and 3A of the FOI Act;
 - (ii) whether access to the document would inform debate on a matter of public importance, namely the relationships between a registered political party, its associated entities and donors;
 - (iii) the scheme of Part XX of the Commonwealth Electoral Act 1918 that favours disclosures by political parties and their associated entities and donors;
 - (iv) the lack of opposition by the parties consulted; and

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	<p>(v) paragraphs 6.3 – 6.33 of the FOI Guidelines; and</p> <p>(b) had no regard to the irrelevant considerations listed in subsection 11B(4) of the FOI Act, in deciding for the purposes of how to apply the public interest test for the purposes of subsection 11A(5) and section 11B of the FOI Act.</p> <p>4.10 I found that access to the business information identified in item 4.4 would contribute to informing debate on the matter of public importance identified in item 4.9(a)(ii).</p> <p>4.11 I concluded that the balance of public interest in accessing the business information identified in item 4.4 outweighed the possible harm to the relevant organisations from giving access to that business information.</p> <p>4.12 I decided to give access to Document No. 4.</p>	
5	<p>Document No. 5 - Letter from Anna Jurkiewicz, Assistant Director, Funding and Disclosure to Ms Susanne Mitchell, Party agent, National Party of Australia.</p> <p>RECOMMENDATION/DECISION</p> <p>5.1 Document No. Error! Reference source not found. contains personal information to which section 47F of the FOI Act applies, namely the name and a facsimile of the signature of an AEC employee.</p> <p>5.2 There is no exceptional circumstance to justify withholding the names of the AEC employee.</p> <p>5.3 There is an exceptional circumstance to justify withholding the facsimile of the signature of the AEC employee, namely the risk of harm arising from identity theft being facilitated by giving access to an electronic facsimile of the employee's signature.</p> <p>5.4 I concluded that Document No. 5 was conditionally exempt under section 47F of the FOI Act.</p>	3/06/13

Public interest considerations

- 5.5 I am required by subsection 11A(5) of the FOI Act to consider whether, in the circumstances, access to Document No. 5 at any time would, on balance, be contrary to the public interest. This must be done in accordance with section 11B of the FOI Act taking into account the FOI Guidelines.
- 5.6 The factors favouring access to Document No. 5 are the same as apply to Document No. 2 as set in item 2.6 of the entry for Document No. 2.
- 5.7 Subsection 11B(4) of the FOI Act forbids me taking into consideration the factors described in item 2.7 of the entry for Document No. 2 in determining whether on balance access to Document No. 5.
- 5.8 Accordingly, I excluded these matters from my consideration.
- 5.9 The factors against giving access to Document No. 5 include whether giving that access include the harm to the signatory of Document No. 5 arising from access to a facsimile of that person's signature, namely loss arising from identity theft facilitated by giving access to the signature. I noted that this harm would be exacerbated by giving access to Document No. 3 in electronic form;
- 5.10 That risk is explained at item 5.3 of this entry.

Consideration whether to offer access to an edited copy

- 5.11 Section 22 of the FOI Act requires me to consider whether it is possible and practicable to prepare an edited copy of Document No. 5 from which any exempt material is redacted.
- 5.12 It is open to me to find that it is possible and practicable to prepare an edited version of Document No. 5 from which is redacted:
 - (a) material out of scope of the FOI Request (irrelevant material); and
 - (b) exempt material.
- 5.13 I found that it is possible to produce a meaningful copy of Document No. 5 given how small the redaction will be that is necessary to remove irrelevant or exempt material.

Document No.	Description	Date
5.14	Decision I have decided to refuse access to Document No. 5 and offer in lieu access to an edited copy of Document No. 5 from which the facsimile of the signature is redacted.	