



Attachment A

DECISION RECORD

Request Details

FOI Request FA 16/11/01873
File Number ADF2016/73417

Scope of request

- *Any documents relating to the making of tariff concession Order TC 0607741 with the wording "PANELS, wood fibre, cement bonded" in respect of an application made by Durisol Pty Ltd finalised on or around 14 July 2006 including:*
 1. *the application for tariff concession order form;*
 2. *any documents provided in respect of the tariff concession order application, including without limitation, illustrative descriptive material, brochures, sample advertising, product manuals, product safety sheets, product specification sheets;*
 3. *any objections received in respect of the application for TC 0607741;*
 4. *documents relating to or evidencing the decision by the Australian Customs Service (as it then was) to make TC 0607741, and*
 5. *The application for TC 0607741 was published in Commonwealth Government Gazette TC 06/28 dated 19 July 2006.'*

Authority to make decision

I am an officer authorised under section 23 of the *Freedom of Information Act 1982* to make decisions with respect to requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

- The terms of your request
- The *Freedom of Information Act 1982*
- The Australian Information Commissioner's guidelines relating to access to documents held by government
- Departmental documents, identified in the Schedule of Documents; and
- Consultations with relevant business areas.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part to documents as detailed in the Schedule of Documents at Attachment B. Please refer to the Schedule of Documents in conjunction with the exemptions below.

Section 22(1)(a): Access to edited copies with exempt matter deleted

With respect to section 22(1)(a)(i) of the Act, I have deleted information where the below exemptions have been applied to the documents within the scope of your request

Section 47F: Personal Privacy

Section 47F of the Act conditionally exempts a document where its disclosure would involve an unreasonable disclosure of personal information about any person. Section 47F(2) of the Act outlines the factors I must have regard to in determining whether the disclosure of the personal information would be *unreasonable*. These are as follows:

- 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 available resources, and
- Any other matters that I consider relevant.

I am satisfied that with respect to the identities of non-Senior Executive Service officers of the Department, their personal information is not well known and would only be known to a limited group of people, and is not available to publicly available resources. I am also of the view that the information is not directly associated with the matters dealt with in the documents.

With respect to the identities of third parties, their personal information is also not well known and would only be known to a limited group of people, as well as not being available on publicly available resources. I am also of the view that the information is not relevant to the broader scope of your request, as you are seeking access to information regarding the Tariff Concession Order rather than the information which wholly relates to other individuals.

On this basis, I am satisfied that information which I have exempted under section 47F are exempted on the basis of the line of reasoning outlined above.

Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. As such, I have also considered whether disclosure of the information I have deleted under this exemption would be contrary to the public interest, and have included my reasoning below.

Section 11A: Public Interest Test

In relation to the documents which I have decided have satisfied the statutory requirements under section 47F, I am required under section 11A of the Act to consider whether access to the conditionally exempt information would be contrary to the public interest. In considering this, I must be satisfied that access to the conditionally exempt document would be, on balance, contrary to the public interest (emphasis added).

In my application of the public interest test, I have noted the objects of the Act and the importance of the other factors outlined under section 11B(3) of the Act, being whether access to the document would do any of the following:

- Promote the objects of this Act (including all the matters set out in sections 3 and 3A)
- 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.

Having regard to the above factors, I have provided you with access to documents where the disclosure of the documents would promote the fundamental objects of the Act. However, I have considered the fact that the disclosure of documents would not inform debate on a matter of public importance, nor would it promote the effective oversight of public expenditure or provide access to your own personal information.

I have also considered the factors that weigh against the release of the conditionally exempt information in the documents.

The disclosure of personal information which is conditionally exempt under section 47F of the act could reasonably be expected to prejudice the protection of those individuals' right to privacy. I am of the view that it is in the public interest to uphold the rights of individuals to their privacy by exempting their personal information from disclosure, especially where their information is not directly associated with the matters dealt with in the documents. I consider this to be a factor that weighs heavily against disclosure.

I have also considered the provisions under section 11B(4) outlining the factors that are irrelevant to my decision. These are as follows:

- 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
- 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
- Access to the document could result in confusion or unnecessary debate.

I have not taken into account any of these factors in my decision.

Upon balancing all of the above relevant public interest criterion, I am satisfied and have decided that the disclosure of the conditionally exempt documents is not in the public interest and therefore exempt from disclosure under the Act.

Legislation

I have attached an extract of the exemption provisions of the FOI Act and the public interest test for your information at **Attachment C**.



Authorised Decision Maker
Freedom of Information Section
Department of Immigration and Border Protection

11 January 2017



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 16/11/01873
File Number ADF2016/73417

No.	Date of document	No. of pages	Description	Decision on release	
1.	21/07/2006	1	Tariff Concession 0607741: Hard Copy Lodgment Form	Release in part	s 47F
2.	No date	2	Explanatory Statement: Tariff Concession Instrument No. 0607741	Release in full	
3.	14/07/2006	1	Correspondence from Australian Customs Service to Rohlig Australia Pty Ltd: Application Successful	Release in part	s 47F
4.	14/07/2006	2	Tariff Concession Order 0607741: Published Proof	Release in part	
5.	No date	1	Customs Tariff – Schedule 3 (Section 13, Chapter 68/6)	Release in full	
6.	18/05/2006	1	Correspondence from Australian Customs Service to Rohlig Australia Pty Ltd: Application Acceptance	Release in part	s 47F
7.	No date	1	Tariff Classification Order 0607741 – Schedule 4	Release in full	
8.	02/05/2006	1	Minute Paper – Central Office: TC 0607741	Release in part	s 47F
9.		3	Tariff Concession Order 0607741: Draft Proofs	Release in part	s 47F
10.	11/05/2006	1	Correspondence from Australian Customs Service to Rohlig Australia Pty Ltd: Application Acknowledgement	Release in part	s 47F
11.	15/03/2006	1	Excerpt from Tariff Concession Gazette	Release in full	
12.	02/05/2006	1	Facsimile from Rohlig to Australian Customs Service	Release in part	s 47F

No.	Date of document	No. of pages	Description	Decision on release	
13.	01/05/2006 (Accessed)	2	Durisol: Illustrative Descriptive Material	Release in part	s 47F
14.	02/05/2006	2	Kompass Database Search	Release in part	s 47F
15.	02/05/2006	4	Tariff Concession Order Application	Release in part	s 47F
16.	03/05/2006	1	Tariff Concession 0607741: File Part Coversheet	Release in full	

Attachment C – Extract of relevant legislation

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

47F Public interest conditional exemptions—personal privacy

General rule

- (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.
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

Access given to qualified person instead

- (4) Subsection (5) applies if:
 - (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
 - (b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.
- (5) The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:
 - (a) carries on the same occupation, of a kind mentioned in the definition of **qualified person** in subsection (7), as the first-mentioned qualified person; and
 - (b) is to be nominated by the applicant.
- (6) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
- (7) In this section:

qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- (a) a medical practitioner;
- (b) a psychiatrist;
- (c) a psychologist;
- (d) a counsellor;
- (e) a social worker.