



Australian Government
Department of Defence

Defence Reference: FOI 202/20/21

FOI 202/20/21 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act) for access to:

First document: Serial: 7 Date: 17/11/16 Document title: Ministerial Advice MA16-001684 Author: Steve Grzeskowiak Addressee: MINDEF Number of pages: 7

Second document: Serial: 10 Date: 12/12/16 Document title: Ministerial Advice MA16-003696 Author: BRIG Tim Bayliss Addressee: MINDEF Number of pages: 4.”

Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified 2 documents as matching the description of the request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and Serial number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:
 - a. partially release 2 documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 33(b) Documents affecting national security, defence or international relations of the FOI Act;

Material taken into account

7. In making my decision, I had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions in the FOI Act;
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
 - e. advice from officers within the department from Estate and Infrastructure Group.

Reasons for decision

Section 33b – Documents affecting national security, defence or international relations

8. Section 33 of the FOI Act exempts a document if its disclosure under the Act would or could reasonably be expected to, cause damage to the security, defence or international relations of the Commonwealth, or information that would divulge information or matter communicated in confidence by or on behalf of a foreign government.

9. Subparagraph 33(b) of the FOI Act states:

A document is an exempt document if disclosure of the document under this Act would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

10. Information communicated and subsequently contained in all Defence arrangements are negotiated in confidence. The documents are accordingly treated and handled as being confidential, and parties have a legitimate expectation this will be maintained.

11. Upon examination of the documents, I identified information, which would divulge matter communicated in confidence on behalf of a foreign government or international organization to the Government of the Commonwealth.

12. I have therefore determined that this material is exempt under section 33 of the FOI Act.



Lyn Harvey
Accredited Decision Maker
Estate and Infrastructure Group

01 December 2020