



Australian Government
Department of Defence

Objective Reference: BN24564559

FOI 222/20/21 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:

“...the full Brereton report into the Australian SAS soldiers in Afghanistan.”

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 one report (document) as matching the description of the request.

Decision

4. I have decided to deny access to the document under section 38 [Documents in which secrecy provisions of the enactments apply] of the FOI Act.

Material taken into account

5. In making my decision, I had regard to:
- a. the terms of the request;
 - b. the content of the identified document 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 Defence Legal.

Reasons for decision

Section 38 – Documents in which secrecy provisions of the enactments apply

6. Section 38 of the FOI Act provides for the protection of documents where disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment. Schedule 3 of the FOI Act identifies the secrecy provisions applicable to section 38, which relevantly states:

*‘Schedule 3 – Secrecy Provisions
Section 38...*

...Defence (Inquiry) Regulations, subregulation 63(2).’

7. The document subject to your FOI request was created under the specific legislation which provides protection under section 38 of the FOI Act. Under the Defence (Inquiry)

Regulations 2018, the document subject to your request is treated as a Court of Inquiry report and is therefore protected under regulation 63.

8. On this basis, I have decided to deny access to this document under section 38 of the FOI Act.

joanne.groves Digitally signed by joanne.groves
Date: 2020.12.16 16:06:24 +11'00'



Mrs Joanne Groves
Accredited Decision Maker
Associate Secretary Group