



Australian Government
Department of Defence

Reference: BN7797696

FOI 009/19/20 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

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

“all documents relating to remarks to be given by the Chief of the Defence Force at the Institute for Regional Security 2019 National Management Symposium held from 12 to 14 June 2019 at Bowral in New South Wales.

My request includes but is not limited to: any speech or draft speech, speaking notes, talking points, aides-memoire, background notes, slides or other presentational materials and email communications.

This request excludes:

- a. the names of any non-Senior Executive Service officers*
- b. duplicate documents*
- c. private email addresses*
- d. signatures*
- e. personnel numbers and telephone numbers”*

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 19 documents (including attachments) 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 Item number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:

- a. release 15 documents in full;
- b. deny access to four documents under section 47C [public interest conditional exemptions-deliberative processes] of the FOI Act; and
- c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) 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 received from the Office of the Chief of the Defence Force (CDF) and the Strategic Policy and Intelligence Group.

Reasons for decision

Section 47C – deliberative processes

8. Section 47C(1)(a) of the FOI Act conditionally exempts documents containing:

... "deliberative matter that is in the nature of an opinion, advice or recommendation that has been obtained, prepared or recorded; or, a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or a minister."

9. I examined the content of each document that was relevant to the terms of the FOI request. With regard to assessing deliberative matter, the Guidelines state:

'Deliberative matter' is a shorthand term for 'opinion, advice and recommendation' and 'consultation and deliberation' that is recorded or reflected in a document. There is no reason generally to limit the ordinary meaning given to the words 'opinion, advice or recommendation, consultation or deliberation'.

10. Documents one to four constitute various draft versions of a speech prepared for the CDF for the National Security Management Symposium organised by the Institute for Regional Security. I consider this material represents opinion, advice or recommendation as part of a deliberative process as it provides advice to the CDF about how he might address a specific topic in a particular forum.

11. I also consider that any purely factual material in these documents is too embedded in or intertwined with the deliberative content such that it would be too impractical to excise it. Accordingly, I have decided to refuse access to these documents in full.

Public interest considerations

12. I have found that the identified documents are conditionally exempt under section 47C of the FOI Act. Section 11A(5) provides that if a document is conditionally exempt, it must be disclosed unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

13. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factor is that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.

14. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factor I find particularly relevant to this request is that release of this information could reasonably be expected to prejudice or harm:

h) an agency's ability to obtain confidential information.

15. The draft speech was prepared for the CDF under the assurance that attendees at the symposium would abide by Chatham House Rules. The CDF used the draft speech as an outline from which to draw in delivering his comments at the symposium, he did not speak verbatim to it. The disclosure of the draft speech would negatively impact on the ability of the Department of Defence to freely engage in future symposia and similar events.

16. I also consider that release of this information could reasonably be expected to negatively impact the speed and frankness of advice from the officers of the Department of Defence to the executive of the department, which relies on a level of confidentiality for optimum effectiveness.

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Joanne Groves
Accredited Decision Maker
Associate Secretary Group