



FOI 136/17/18 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:

“Item :1 ...all documents relating to the preparation of a May 15 media response to questions submitted by The Australian about trials of the LHD landing craft's ability to carry a tank.

This should include documents, emails and text relating to planning, drafts, alterations, feedback, and monitoring of reaction to the response. This should also include all relevant emails between advisers, defence chiefs, and others along with any minutes of meetings, and clarification by defence of its objectives around subjects raised in the response.

Item 2: The first and subsequent drafts of the response are sought as are any text messages between media unit staff and the staff of the Defence Minister Marise Payne and the Chief of Defence and Chief of Navy etc.”

Excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request. In addition, excluding duplicates of documents.

FOI decision maker

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

Documents identified

3. I identified 25 documents as matching the description of the request, including all first and subsequent drafts as requested in Item 2 of the scope of this request.

4. The decision in relation to each document is detailed in a schedule of documents.

5. I have added an FOI reference number, item and serial number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:

- a. partially release 25 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 47F [public interest conditional exemptions-personal privacy] of the FOI Act;
- b. refuse access to documents of the request under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] 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 Defence Media, Navy Media and Capability Acquisition and Sustainment Group (CASG).

Reasons for decision

Section 47F - Personal privacy

8. Upon examination of the documents, I identified personal information, specifically the name and contact details of an individual other than the applicant.
9. When assessing whether the disclosure of personal information is unreasonable, I considered the following factors:
- 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; and
 - d. the effect the release of the personal information could reasonably have on the individual.
10. I found that:
- a. specific personal information listed is not well known; and
 - b. the information is not readily available from publicly accessible sources.

11. The release of the name and contact details identified in the document would be an unreasonable disclosure of personal information and therefore conditionally exempt under section 47F of the FOI Act.

Section 47F - Public interest considerations

12. I have found that the identified document is conditionally exempt under section 47F 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 factors being that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.

14. However, disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act), given that the content comprises only personal information of individuals.

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

- a. the protection of an individual's right to privacy; and
- b. the interests of an individual or a group of individuals;

16. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F of the FOI Act.

17. None of the factors listed in section 11B(4) [Irrelevant factors] were taken into account when making my decision.

Section 24A – Request may be refused if documents cannot be found, do not exist or have not been received

18. Section 24A(1) of the FOI Act states;

(1) an agency or Minister may refuse a request for access to a document if:

- a. *all reasonable steps have been taken to find the document; and*
- b. *the agency or Minister is satisfied that the document:*
 - (i) is in the agency's or Minister's possession but cannot be found; or*
 - (j) does not exist.*

19. A request for documents related to both items of this request was sent to Defence Media, Navy Media and CASG.

20. Advice received from each of these areas is that there were no text messages generated in relation to the media enquiry.

21. Based on the above, I am satisfied that no documents exist. Accordingly, I have decided to refuse access under section 24A of the FOI Act.

Nick.Mathews Digitally signed
by Nick.Mathews
Date: 2017.11.22
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NJ Mathews
Captain, Royal Australian Navy Reserve
Accredited Decision Maker
Navy Group