



Australian Government
Department of Defence

Reference: OCA/OUT/2017/R28702732

FOI 159/16/17 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 most recent brief sent to the Chief of Army, the Chief of Defence Force and/or the Minister for Defence mentioning the relocation of Army 7 Brigade. The timeframe for this request would be 1 July 2014 - 6 January 2017.

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

DOCUMENTS IDENTIFIED

3. I identified one document, totalling five pages, as matching the scope of this request.

DECISION

4. I have decided to:

- a. partially release the document 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 47C [Deliberative Processes] of the FOI Act
- b. 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

5. 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)
- e. advice provided by Director Enabling Support - Army.

REASONS FOR DECISION

47C Public interest conditional exemptions—deliberative processes

6. Section 47C of the FOI Act details that:

*(1) A document is conditionally exempt if its disclosure under this Act would disclose matter (**deliberative matter**) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:*

(a) an agency.

7. Upon examination I found the document contained information that speculates on possible locations that may, or may not, be considered for future sites of military bases. This could reasonably be expected to affect the price of property in those regions and influence Defence negotiations if they are to occur in the future.

8. Taking the above into account, I consider the material to be conditionally exempt under section 47D of the FOI Act as release would cause a substantial adverse effect on the financial interests of the Commonwealth.

Public interest considerations – section 47C

9. When assessing whether the disclosure of the information is contrary to the public interest, I considered the factors that favour access to a document set out in section 11B(3) of the FOI Act [Public interest exemptions – factors]. None of the factors listed in section 11B(4) [Irrelevant Factors] were taken into account when making my decision.

10. In relation to section 11B(3)(a) of the FOI Act [Promote the objects of this Act (including all the matters set out in sections 3 and 3A)], information held by the Government is a national resource and release of the personal information would promote the object of the FOI Act specified in section 3(1)(b) of the FOI Act.

11. 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 disclosure of the documents could reasonably be expected to prejudice the competitive commercial activities of an agency (Paragraph 6.22(j)).

12. I find that the public interest factors against disclosure outweigh the factors for disclosure of the identified information and I deem the information exempt under section 47C of the FOI Act.

13. The redacted paragraph is speculative. Releasing this information could place Defence at a commercial negotiating disadvantage if it is required to be actioned. At this time, no decision has been made on the future location of 7 Bde. I find that the public interest factors against disclosure outweigh the factors for disclosure of the identified information and I deem the information exempt under section 47C of the FOI Act.

14. Searches were undertaken on the Defence Parliamentary Workflow System (DPAWS) and by the Office of the Chief of Defence Force and no further documents within the scope of this request were identified.

FURTHER INFORMATION

15. A number of documents matching the scope of this request were classified. I have declassified the versions of the documents that are approved for release. As the documents are approved for public release the marker has been struck through.



TA Garrett
Lieutenant Colonel
Accredited Decision Maker
Army

3 February 2017