



Australian Government
Department of Defence

Reference: R28579701

FOI 194/16/17 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:

Item 1: All internal communications that was generated internally for my prior FOI request number 060/16/17. Communications of this FOI request should include (but not be limited to): written notes, emails and phone calls (or meta data surrounding phone calls, such as duration, origin and destination).

Item 2: Communications that relate to the internal review of the decision of this FOI should be included as well.

Excluding correspondence sent to and from me.

Excluding the spreadsheets provided to me as documents for FOI 060/16/17.

Excluding personal email addresses, signatures, personnel (PMKeyS) numbers and mobile telephone numbers, contained in documents that fall within the scope of this request. Also 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 45 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 item and serial number to each of the documents which corresponds with the numbers in the schedule.

Decision

6. I have decided to:

- a. release 31 in documents in full;
- b. partially release 14 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(a)(ii) [documents affecting defence] 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;
- 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 Chief Information Officer Group (CIOG).

Reasons for decision

Section 33(a)(ii) – defence of the Commonwealth

8. Section 33(a)(ii) of the FOI Act exempts documents if disclosure would, or could reasonably be expected to, cause damage to the defence of the Commonwealth. Paragraph 5.34 of the Guidelines explains:

The Act does not define ‘defence of the Commonwealth’. Previous Administrative Appeals Tribunal (AAT) decisions indicate that the term includes:

- *meeting Australia’s international obligations*
- *ensuring the proper conduct of international defence relations*
- *detering and preventing foreign incursions into Australian territory*
- *protecting the Defence Force from hindrance or activities which would prejudice its effectiveness.*

9. The documents within the scope of this request contain information which, if released, could reasonably be expected to cause damage to the defence of the Commonwealth. CIOG advised that some of the material contained in the identified documents details Defence’s operational Information and Communications Technology (ICT) capabilities and therefore poses a major security concern regarding operational activities pertaining to the defence of the Commonwealth.

10. In deciding that material was exempt under section 33 of the FOI Act, I also considered the mosaic theory: The Guidelines state that:

5.39 When evaluating potential harmful effects of disclosing documents that affect Australia’s national security, defence or international relations, decision makers may take into account not only the contents of the document but also the intelligence technique usually known as the ‘mosaic theory’. This theory holds that individually harmless pieces of information, when combined with other pieces, can generate a composite – a mosaic – that can damage Australia’s national security, defence or international relations. Therefore, decision makers may need to consider other sources of information when considering this exemption.

5.40 The mosaic theory does not relieve decision makers from evaluating whether there are real and substantial grounds for the expectation that the claimed effects will result from disclosure.

11. I found that the identified sections of the documents contained information that, if disclosed, may add to what is already known, or already in the public domain. An individual applying the mosaic theory to the information relating to Defence’s ICT capabilities would undermine Defence’s effectiveness in the defence of the Commonwealth.

12. Taking the above into account, I consider that disclosure of the material would, or could reasonably be expected to, cause damage to the defence of the Commonwealth. Accordingly, I consider the material to be exempt under section 33(a)(ii) of the FOI Act.

Clarification Statement

13. The applicant requested internal communications including phone calls or meta data surrounding phone calls, such as duration, origin and destination. FOI 060/16/17 is one of many FOI cases that are managed by the FOI team. Multiple calls are made each day between FOI case management and the various line areas across Defence in relation to these cases.

14. CIOG have advised that any meta data captured for phone calls made out of the FOI office would not reflect the nature of the call or the particular case that formed the basis of the conversation.

15. I am satisfied that all reasonable steps have been taken to locate the documents in the scope of the request.

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Nicola Viney
Accredited Decision Maker
Associate Secretary Group