



**Australian Government**  
**Department of Defence**

**FOI 265/16/17 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:

*1. All correspondence between the Department of Defence and the Prime Minister's office between June 2014 and December 2015 pertaining to the 2014 Ebola outbreak in West Africa regarding any proposals and discussion for deploying Australian Defence Force personnel and assets to respond to the crisis.*

*2. All correspondence between the Department of Defence and the Department of Prime Minister and Cabinet between June 2014 and December 2014 pertaining to the 2014 Ebola outbreak in West Africa regarding any proposals and discussion for deploying Australian Defence Force personnel and assets to respond to the outbreak.*

*3. Documents produced by the Department of Defence between June 2014 and December 2014 related to an assessment of defence capabilities to respond to the 2014 West African Ebola outbreak.*

*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 23 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 FOI reference number, Item and Serial number to each of the documents, which corresponds with the schedule.

**Decision**

6. I have decided to:

a. release four documents in full;

b. partially release 14 documents in accordance with section 22(1)(a)(ii) [access to edited copied with exempt or irrelevant matter deleted], on the grounds that the deleted material is considered exempt under sections under section 33 [Documents affecting national security, defence or international relations] and section 47F [public interest conditional exemptions-personal privacy] of the FOI Act;

- c. deny access to five documents in accordance with sections 33 [Documents affecting national security, defence or international relations] of the FOI Act; and
- d. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(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 provided by the Royal Australian Air Force, Headquarters Joint Operations Command and the Department of Foreign Affairs and Trade.

### **Reasons for decision**

#### **Section 33(a)(i) – Security of the Commonwealth**

8. Section 33(a)(i) of the FOI Act exempts documents if disclosure would, or could reasonably be expected to, cause damage to the security of the Commonwealth. Paragraph 5.29 of the Guidelines describes damage to the security of the Commonwealth as broadly referring to the protection of Australia and its population from activities that are hostile to, or subversive of, the Commonwealth's interests.

9. The documents within the scope of this request contain information, which if released, could reasonably be expected to cause damage to the security of the Commonwealth. The documents contain details of processes and information sources relating to procedures and considerations made by decision makers within the Commonwealth and other nations. There is also information relating to Australia and other nations Defence capabilities that, if disclosed, would assist foreign intelligence collection.

10. Accordingly I consider the release of the information so marked, would or could reasonably be expected to, cause damage to the security of the Commonwealth. I therefore consider this information exempt under sections 33(a)(i) of the FOI Act.

#### **Section 33(a)(iii) and 33(b)– International Relations of the Commonwealth and Information Communicated in Confidence by a Foreign Government**

11. Section 33(a)(iii) of the FOI Act exempts a document if disclosure of the document would, or could reasonable be expected to, cause damage to the international relations of the Commonwealth. Paragraph 5.36 of the Guidelines describes international relations as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations, including relations between government agencies, and to protect the flow of confidential information between them.

12. The documents within the scope of this request contain information, which if released, could reasonably be expected to damage the international relations of the Commonwealth. The documents contain information which could cause damage to Australia's relations with the United Kingdom as it would disclose knowledge and assessments of foreign governments, the identities of foreign government officials and the content of discussions and communications that were undertaken in confidence. If this information were to be publicly

released by Defence, it would likely cause damage to the international relations of the Commonwealth insofar as it would limit the Commonwealth's ability to deal with other countries in relation to similar matters in the future. The disclosure of such information may diminish the confidence which another country has in Australia as a reliable recipient of its confidential information, making the country less willing to cooperate with Australian agencies in the future.

13. Accordingly, I consider the release of the information so marked, would or could reasonably be expected to, cause damage to the international relations of the Commonwealth. I therefore consider this information exempt under section 33(a)(iii) of the FOI Act.

14. I found that some of the documents contained information communicated in confidence to Defence by a foreign government. It was communicated in circumstances implying an obligation of confidence and the information itself is of a confidential nature. If the material was released without the express agreement of the foreign government it could harm the positive working relationship that Australia has with that government. I am satisfied that the material is exempt under section 33 (b) of the FOI Act.

### **Section 47F – Personal Privacy**

15. Upon examination of the documents, I identified personal information of people other than the applicant. This information includes names and photographs that could be used to reasonably ascertain the identity of individuals. It therefore satisfies the definition of personal information in section 4 of the FOI Act. To determine whether the disclosure of the identified personal information was unreasonable, I had regard to the criteria specified in section 47F(2) of the FOI Act.

16. Section 47F(2) states:

*47F Public interest conditional exemptions – personal privacy*

*General Rule*

(2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*

- (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 publicity accessible sources;*
- (d) *any other matters that the agency or Minister considers relevant.*

17. Against these criteria, I found:

- a. the specific personal information listed is not well known;
- b. the individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the documents; and
- c. the information is not readily available from publicly accessible sources.

18. With reference to the assessment above, I consider that the release of names and photographs would be an unreasonable disclosure of personal information and conditionally exempt under section 47F(1) of the FOI Act.

### **Sections 47F - Public interest considerations**

19. I have found that the identified documents are 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”.

20. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors are that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource (section 3(3) of the FOI Act) and it would allow scrutiny, discussion, comment and review of the Government’s activities (section 3(2)(b) of the FOI Act).

21. 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 the protection of an individual’s right to privacy.

22. Protection of an individual’s right to privacy is not outweighed by the promotion of the objects of the FOI Act. 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.

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

### **Further Information**

24. A number of the documents matching the scope of this request were classified. I have declassified the versions of the documents that are approved for release.

25. Some of the documents matching the scope of this request contained a dissemination limiting marker. As the documents are approved for public release the marker has been struck through.

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**NA Hogan**  
Group Captain  
Accredited Decision Maker  
VCDF Group

8 June 2017