



FOI 309/15/16 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:

“... any formal correspondence from the Minister of Defence, Secretary of the Department of Defence or Chief of the Defence Force to the US Secretary of Defence or any other senior US defence official in relation to US military presence in northern Australia and/or enhanced cooperation with the US

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, exclude 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 14 documents as matching the description of the request.

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

Decision

5. I have decided to:

- a. release 10 documents in full; and
- b. partially release four documents, on the grounds that the deleted material is considered exempt under sections 47F [public interest conditional exemptions - personal privacy] or 33 [documents affecting national security] of the FOI Act.

Material taken into account

6. 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 from the United States government.

Exemptions under the FOI Act

Section 47F - Personal privacy

7. Upon examination of the documents, I identified personal messages from the authors, not related to the subject of the request. In the FOI Act, a document is conditionally exempt if its disclosure under the Act would involve the unreasonable disclosure of personal information about any person. In determining whether the disclosure of the information would involve unreasonable disclosure of personal information, I had regard to:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates is known to be associated with the matters dealt with in the document; and
- c. the availability of the information from publicly accessible sources.

8. In each case, the information is not well known and there are individuals mentioned that are not related to the main subject of the letters (and, ergo, the subject of the FOI request), and the information is not available publicly.

Public interest considerations

9. Section 11A(5) of the FOI Act requires that agencies provide access to conditionally exempt documents unless disclosure at that time would, on balance, be contrary to the public interest.

10. In determining whether release of this conditionally exempt information would be in the public interest, I considered whether access to the information would:

- a. promote the objects of the FOI Act;
- b. inform public debate on a matter of public importance;
- c. promote effective oversight of public expenditure; or
- d. allow someone access to their personal information.

11. I consider that the public interest in promoting the objects of the Act have been satisfied as I do not consider removal of the specific information detracts from the sense of the documents. I am also satisfied that the promotion of the FOI Act is evidenced by the public disclosure of government held information.

12. I do not consider that the specific information would inform debate on a matter of public importance or promote oversight of public expenditure.

13. Conversely, I consider it is imperative that Defence is seen to manage personal information in an effective manner so as not to compromise the privacy of individuals.

14. I decided that the protection of personal privacy outweighs the arguments for disclosure and therefore find the specific material to be exempt under section 47F of the FOI Act.

Section 33 – International Relations

15. I identified two separate sections in one of the documents (document 309/14) that, if released, could harm Commonwealth relations with several countries. Under section 33 (a) (iii) of the FOI Act, a document is an exempt document if disclosure would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth. In determining whether release of one of these sections would harm relations with the United States, I recommended consultation with the US government. I have taken into account the response from the US in forming my decision.

Section 22 – Edited copies with exempt or irrelevant matter deleted

16. Section 22 of the FOI Act provides that if an agency or Minister decides to:
- a. refuse access to an exempt document; or
 - b. that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access,

and it is reasonably practicable to prepare a copy of the document modified by deletions, the agency or Minister must give the applicant access to the edited copy.

17. Taking all of the above into account, I have decided that the identified documents can be released with the exempt material removed.

Further Information

18. The document identified as 309/3 was classified at the time of drafting. This document is no longer classified. The same document contained a dissemination limiting marker. As the document can now be released, the marker has been struck through.



Linda McCann
Accredited Decision Maker
Strategic Policy and Intelligence Group

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