



**Australian Government**  
**Department of Defence**  
Defence Support and Reform Group

Freedom of Information and  
Information Management Branch  
Department of Defence

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Our reference: FOI 421/12/13

██████████  
By email: ██████████

Dear ██████████

1. I refer to your email of 14 June 2013, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:  
*“Pursuant to the Commonwealth Freedom of Information Act, the International Campaign to Abolish Nuclear Weapons (ICAN) requests any submissions to the Minister (excluding drafts) and documents issued by the Minister (excluding drafts) since June 2011 relating or referring to extended nuclear deterrence.”*

2. On 3 July 2013, you agreed to extend, by 10 days, the deadline for providing you with a decision. Accordingly, the final due date for providing you with a decision is 24 July 2013.

**FOI decision maker**

3. Mr Andrew Hodgkinson, Director Americans, International Policy Division, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

**Documents identified**

4. Mr Hodgkinson identified seven documents matching the description of your request. A schedule of documents outlining Mr Hodgkinson’s decision against each document is at Enclosure 1.

**Decision**

5. After inspecting the documents identified at paragraph 4, above, Mr Hodgkinson decided to:

- release items serials 1 and 4 intact;
- release serial 2 with deletions made in accordance with section 22 of the FOI Act, on the basis that the deleted information is exempt under 47F [public interest conditional exemptions – personal privacy] of the FOI Act;

- release serials 3 and 5 with irrelevant material removed, in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act;
- release serial 6 with deletions in accordance with section 22 [deletion of exempt matter] of the FOI Act as the deleted material is considered exempt under section 33 [documents affecting national security, defence or international relations] of the FOI Act; and
- deny release to serial 7 in accordance with section 22 [deletion of exempt matter] of the FOI Act as the deleted material is considered exempt under sections 34 [Cabinet documents], and section 22 [access to edited copies with exempt or irrelevant matter deleted].

#### **Material taken into account**

6. In making his decision Mr Hodgkinson had regard to:
- the terms of the FOI request;
  - relevant provisions in the FOI Act;
  - the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines); and
  - Advice from Acting Assistant Secretary Strategic Policy, Director Joint Facilities and Technical Programs and FOI Advisor Department of the Prime Minister and Cabinet.

#### **Reasons for decision**

##### **Section 47F**

7. Upon inspecting serial 2, Mr Hodgkinson found that it contained personal information of a third party, namely a mobile phone number. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, Mr Hodgkinson 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 (or to have been) associated with the matters dealt with in the documents; and
  - c. the availability of the information from publicly accessible sources.
8. Against those criteria, Mr Hodgkinson found that:
- a. the specific personal information is not well known; and
  - b. this information is not readily available from publicly accessible sources
9. Therefore, Mr Hodgkinson decided that the disclosure of this material would involve the unreasonable disclosure of personal information belonging to another person.
10. Subsection 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

## **Section 47F - Public interest conditional exemptions**

11. Section 11A(5) provides that conditionally exempt matter must be released unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest.
12. In assessing whether disclosure of the mobile phone number is, on balance, contrary to the public interest, Mr Hodgkinson considered the range of factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. While information held by the Government is a national resource, the disclosure of the number would not increase public participation in Government processes, nor would it increase scrutiny or discussion of Government activities.
13. The mobile phone number would be unlikely to be of interest to you and would not inform public debate on any matter of public importance in any meaningful way.
14. Additionally, disclosure of the information would not promote oversight of public expenditure, nor would they allow you to have further access to your own personal information.
15. In coming to the above decision, Mr Hodgkinson considered subsection 11B(4) [public interest exemptions–irrelevant factors] of the FOI Act.
16. Accordingly, Mr Hodgkinson considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the document. Therefore, Mr Hodgkinson decided that it would be contrary to the public interest to release the information considered exempt under subsection 47F [public interest conditional exemptions–personal privacy] of the FOI Act.

## **Section 22**

17. Upon examination of serials 3, 5 and 7 Mr Hodgkinson found that they contained material regarding matters which do not relate to extended nuclear deterrence. Mr Hodgkinson considered that the material would disclose information that would be reasonably regarded as irrelevant to the scope of your request. As such, in accordance with subparagraph 22(1)(a)(ii) of the FOI Act, Mr Hodgkinson decided to remove the material.

## **Section 34**

18. Section 34(1)(c) exempts a document that is brought into existence for the dominant purpose of briefing a Minister on a document to which section 34(1)(a) applies. Section 34(2) provides that a document is also an exempt document to the extent that it is a copy or a part of, or contains an extract from, a document to which section 34(1)(c) applies.
19. Mr Hodgkinson found that the information exempted under section 34(1)(c) has been brought into existence for the dominant purpose of briefing a Minister on a document to which section 34(1)(a) applies. Mr Hodgkinson obtained advice from Defence officers with responsibility for matters relating to the documents and also from the Department of Prime Minister and Cabinet, which confirmed his finding.

20. Accordingly, Mr Hodgkinson decided to exempt this information from release under section 34(1)(c).

### Section 33

21. Section 33(a)(iii) of the FOI Act states:

*A document is an exempt document if disclosure of the document under this Act:*

*(a) would, or could reasonably be expected to, cause damage to:*

*(i) the international relations of the Commonwealth;*

22. For serial 6 to qualify for this exemption Mr Hodgkinson considered whether serial 6 contained information that relates to the international relations of the Commonwealth, and secondly whether disclosure of that information would or could reasonably be expected to cause damage to the international relations of the Commonwealth.

23. In coming to his decision Mr Hodgkinson had regard to the FOI guidelines which state (at 5.30) that *"the phrase 'international relations' has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them"*.

24. Further, the guidelines state (at 5.31) that *"...the phrase does encompass intangible damage, such as loss of trust and confidence in the Australian Government..."*.

25. Upon examination of serial 6, Mr Hodgkinson found that it contained material that relates to the international relations of the Commonwealth and that, if disclosed, could diminish the positive working relationship between the Australian and US Governments.

26. In light of the above, Mr Hodgkinson was satisfied that the document contains information that could reasonably be expected to damage the international relations of the Commonwealth and deemed that the information is exempt under section 33(a)(iii) of the FOI Act.

### Charges

27. In our letter to you, dated 19 June 2013, the department estimated that the charges associated with processing your request were [REDACTED]. On 19 June 2013, we received your agreement to pay the deposit of [REDACTED].

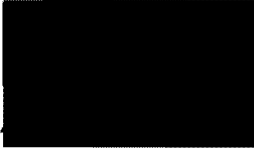
28. Upon complete of your request, the decision maker determined that the actual cost of processing your request was [REDACTED]. Accordingly, before the department is able to release the documents to you, we must receive your agreement to pay the remaining difference of [REDACTED].

29. A copy of the charges authorisation form is at Enclosure 2.

### FOI Disclosure Log

30. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within two working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

31. If you have any questions, please contact our office.



Phillip Connelly  
Case Officer  
Freedom of Information

23 July 2013

Enclosure:

1. Schedule of documents.
2. Charges authorisation form.