



Australian Government

Department of Defence

Office of the Chief Operating Officer

Freedom of Information and
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Our reference: FOI 054/12/13



By email:

Dear

1. I refer to your email, dated 14 August 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"Any Ministerial submission or briefing(s) concerning the unauthorised publication by WikiLeaks of information concerning Afghanistan, provided by the Department of Defence to Defence Minister Senator John Faulkner in July 2010, with Defence Department references CDF(S)OUT/2010/562, SEC(S)/OUT/2010/133)."

2. The purpose of this letter is to provide you with the decision relating to the document that is the subject of your request.

FOI decision maker

3. Mr Andrew Craig, Director Executive, International Policy Division is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

4. Mr Craig identified one document, being a Ministerial Submission – reference B1369265, which matches the scope of your request.

Decision

5. Mr Craig decided to release the identified document with material deleted, 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 exempt under section 33 [documents affecting national security, defence or international relations] of the FOI Act. Mr Craig's reasons are set out below.

Material taken into account

6. In making his decision Mr Craig had regard to:

- The content of the identified document in issue;
- 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 Military Strategic Commitments Division whose duties relate to the matters referred to in the document.

Section 33

7. In reviewing the document in question, Mr Craig found that it contained material that was provided to Australia in confidence by agencies from other national governments, as outlined in subsection 33(b) of the FOI Act. Mr Craig also found that the document contained information, including Australian assessments of the Wikileaks material. To release this information would run counter to 'maintaining good working relations with other governments' as set out in the guidelines. As such, Mr Craig was satisfied that the specific material is exempt under paragraph 33(a)(iii) of the FOI Act as releasing such information could reasonably be expected to cause damage to the international relations of the Commonwealth.

8. Linked to the above, Mr Craig found that the document contained material which has the potential to expose other nations' views on bilateral Defence issues, which has not been disclosed publicly by those nations. Moreover, Mr Craig also found that the documents contain sensitive information pertaining to Australian Defence Force (ADF) operations, including ADF tactics, techniques and procedures. If this material was to be released, Mr Craig considered that it would inform adversaries of important Australian capabilities, which could expose ADF members to unnecessary risk. Mr Craig was satisfied that this material is exempt under paragraph 33(a)(ii) of the FOI Act.

Section 22

9. While Mr Craig identified exempt material in the identified document, he considered that it could be released with the material removed. A copy of the document in the form approved for release is at Enclosure 1.

Payment of Charges

10. In our letter, dated 16 August 2012, after deducting the free decision making time, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request, noting that a deposit was not required

11. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. I have decided, on this occasion, to waive the charges amount as the administrative costs associated with processing the payment would actually be greater than the amount collected.

Rights of review

12. The FOI Act provides for rights of review of decisions. A copy of the fact sheet "Freedom of Information – Your Review Rights" setting out your rights of review is at Enclosure 2.

FOI Disclosure Log

13. 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.

Further advice

14. The FOI Act can be found online at: <http://www.comlaw.gov.au/Details/C2011C00803>

15. Should you have any queries in regards to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can be contacted on the details at the top of this letter.

Yours sincerely



Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

14 September 2012

Enclosures:

1. Document in form approved for release
2. Fact Sheet: Freedom of Information – Your Review Rights