



Australian Government
Department of Defence

Defence Reference: FOI 205/20/21

FOI 205/20/21 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. Anti-bribery and corruption compliance programme pertaining to the acquisition of 6 Cape class vessels acquired from Australian ship builder Austal Ltd, which was announced in April/May 2020

2. Anti-bribery and corruption due diligence undertaken by the Department of Defence in relation to Austal Ltd relating to the Cape Class vessels

3. Anti-bribery and corruption compliance programme (or similar programme) obtained from Austal Ltd by the Department of Defence prior to or at the time the contract for the supply of the Cape Class vessels was signed.”

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified no documents as matching the description of the request.

Decision

4. I have decided to refuse access to documents of the request under subparagraph 24A(1)(b)(ii) [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

Material taken into account

5. 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 received from the officers within the Patrol Boat Program.

Reasons for decision

6. Section 24A(1) of the FOI Act States:

Requests may be refused if documents cannot be found, do not exist or have not been received

Documents lost or non-existent

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency 's or Minister 's possession but cannot be found; or

(ii) does not exist.

7. I am satisfied that "all reasonable steps" have been taken to locate the document sought by the applicant. I am satisfied that the document does not exist, and refuse access to the request under section 24A (1) of the FOI Act.

Further Information

8. The implementation of the Defence Fraud Control Plan No. 11 in 2015 removed the requirement for sub-plans at the Group/Service Program/Project level. This is consistent with the Commonwealth Fraud Control Framework and Australian National Audit Office advice on best practice. This arrangement continued under the implementation of the Defence Fraud and Corruption Control Plan in June 2017 and the update in May 2018. All Defence personnel (including Contractors) are required to comply with the Defence Fraud and Corruption Control Plan.

Paul.Dorival Digitally signed by Paul.Dorival
Date: 2020.11.30 14:31:04
+11'00'

Mr Paul D'Orival
Accredited Decision Maker
Capability Acquisition and Sustainment Group