



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

**DEFENCE FOI 024/22/23 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:

*“Request Commonwealth Records dealing with the Archives Act public access review of the following file:  
CRS A7452; File No.: A459; Title: Protection of sensitive archives documents relating to special UK intelligence.”*

**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 four documents as matching the scope of this request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and Item/Document number to each of the documents which correspond with the schedule.

**Exclusions**

6. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents and documents to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

**Decision**

7. I have decided to:
  - a. release two documents in full;
  - b. partially release one document 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 considered exempt under section 33(a)(i) [documents affecting national security, defence or international relations] of the FOI Act; and
  - c. deny access to one document in accordance with section 7(2A)(a)(i) [exemption of certain persons and bodies] of the FOI Act.

### **Material taken into account**

8. 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)

### **Reasons for decision**

#### **Section 7 - Exemption of certain persons and bodies**

9. Section 7(2A)(b) of the FOI Act provides that information from an intelligence agency is exempt from the operation of the Act in relation to particular types of documents.
10. Section 7(2C)(a)(i) of the FOI Act provides that a document that has originated with, or has been received from, the Department of Defence and that is in respect of: (i) the collection, reporting or analysis of operational intelligence is exempt from the operation of the Act.
11. In accordance with FOI Guidelines 2.18 the Exemption also extends to a part of a document that contains an extract from or a summary of an intelligence document.

*2.18 All Australian Government agencies are exempt from the operation of the Act in relation to 'intelligence agency documents' and 'defence intelligence documents' (for example, a document that originated with or was received from the Department of Defence and relates to the collection, reporting or analysis of operational intelligence s 7(2C)... The exemption extends to a part of a document that contains an extract from or a summary of an intelligence agency document or a defence intelligence document. The remainder of the document is not exempt on the same basis, and access may have to be given after deletion of the exempt material under s 22.*

12. I am satisfied that the following document is exempt under section 7 of the FOI Act:

- Response to Classified Records Review Letter (Document 4) – originated with the Australian Signals Directorate

#### **Section 33 - Documents affecting national security, defence or international relations**

13. Section 33(a)(i) exempts a document if disclosure of the document would, or could reasonably be expected to, cause damage to the security of the Commonwealth.
14. In regards to the terms 'could reasonably be expected to' and 'damage', the Guidelines provide:

*5.16 The test requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of a document.*

*5.17 The use of the word 'could' in this qualification is less stringent than 'would', and requires analysis of the reasonable expectation rather than certainty of an event, effect or damage occurring. It may be a reasonable expectation that an effect has occurred, is presently occurring, or could occur in the future.*

*5.31 The meaning of damage has three aspects:*

- i) that of safety, protection or defence from something that is regarded as a danger. The AAT has given financial difficulty, attack, theft and political or military takeover as examples.*
- ii) the means that may be employed either to bring about or to protect against danger of that sort. Examples of those means are espionage, theft, infiltration and sabotage.*
- iii) the organisation or personnel providing safety or protection from the relevant danger are the focus of the third aspect.*

15. I identified material in the documents which upon release could reasonably be expected to cause damage to the security of the Commonwealth by making public information which could identify the personnel providing safety or protection to the Commonwealth.

16. Accordingly, I have decided that the specified material is exempt pursuant to section 33(a)(i) of the FOI Act.

#### **Further Information**

17. 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.

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Christina Simon  
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