



## Australian Government

### Department of Defence

SOCOMD DPN Objective: BQ29609493

#### DEFENCE FOI 151/21/22 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 documents:

*'...about an element of the Australian Defence Organisation (Defence) created in 2006 and known by at least two names: the Special Operations Commitments Cell, and the Joint Inter-Agency Liaison Office (SOCC/JIALO).*

*The documents I seek are connected to FOI applications made by me in 2014, during which I was granted access to a Defence document called "JIALO INITIATING ADVICE" (see Defence FOI Nos: 311/13/14 and 350/13/14). Please note, I do not require that document as part of this request.*

*Specifically, I seek the following documents;*

- *those that discuss the 2006 initiating advice of the Special Operations Commitment Cell, created in 2006*
- *those that discuss the evolving purpose of SOCC/JIALO (even if it now exists under a new name), created in the last 12 months.'*

#### 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 one document, totalling four pages, as matching the scope of this request.

#### Exclusions

4. 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, or those advised by the applicant that they are not required, are excluded from this request.

#### Decision

5. I have decided to partially release the 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 [documents affecting national security, defence or international relations] 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)
  - e. advice received from Officers within the Department.

### **Reasons for decision**

#### **Section 33(a)(i) – damage to the security of the Commonwealth**

7. 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.

8. 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 organisations or personnel providing safety or protection from the relevant danger are the focus of the third aspect.*

9. I identified material in the document which upon release could reasonably be expected to cause damage to the security of the Commonwealth by making public a Defence capability that is highly classified.

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

**Section 33(a)(ii) – damage to the defence of the Commonwealth**


11. Section 33(a)(ii) exempts a document if disclosure of the document would, or could reasonably be expected to, cause damage to the defence of the Commonwealth.

12. I find that disclosure of the document exempt under section 33(a)(ii) as it would cause, or could reasonably be expected to cause, damage to the defence of the Commonwealth. The detail in each document identifies the establishment of a Defence capability that is highly classified, the disclosure of which would make the capabilities publically known. Nation States not allied with Australia could take steps or devote resources to counter the capability and therefore would cause damage to the defence of the Commonwealth. 'Defence of the Commonwealth' is not defined in the Act, but has been held to include meeting Australia's international obligations. Ensuring the proper conduct of international defence relations, deterring and preventing foreign incursions into Australian territory, and protecting the Defence Force from hindrance or activities which would prejudice its effectiveness.

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

**Further Information**

14. The document matching the scope of this request was classified. I have declassified the version that is approved for release.



**GC Gould**  
BRIG  
FOI Decision Maker  
Army

20 Oct 21