



Australian Government
Department of Defence

Reference: BN10460798

FOI 409/18/19 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. On 19 May 2019, Senator Rex Patrick requested access to the following under the *Freedom of Information Act 1982* (FOI Act):

"I seek access to the following:

- *"The Incoming Government Brief as prepared for the Liberal national Coalition insofar as the brief relates to the naval shipbuilding program or naval sustainment program.*
- *The Incoming Government Brief as prepared for the Labor Party insofar as the brief relates to the naval shipbuilding program or naval sustainment program.*
- *Excluding private email addresses, signatures, personnel (PMKeyS) numbers, mobile telephone numbers, duplicates of documents and documents sent to or from the applicant."*

2. On 21 June 2019, Mrs Justine Nordin of the Associate Secretary Group as the authorised decision maker, made a decision to:

- a. release one document in full;
- b. partially release two documents 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], section 34 [Cabinet documents] and/or section 47C [public interest conditional exemptions-deliberative processes] of the FOI Act;
- c. deny access to three documents under section 33 [Documents affecting national security, defence or international relations] and/or section 34 [Cabinet documents] of the FOI Act; and
- d. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

3. On 23 August 2019, the Department was notified by the Office of the Australian Information Commissioner (OAIC) that the applicant had requested the Information Commissioner (IC) to review the Department's decision. The OAIC advised that the IC would review the decision under section 54Z of the FOI Act.

4. The purpose of this correspondence is to provide the applicant with a revised decision under section 55G [Procedure in IC review – revocation or variation of access refusal decision] of the FOI Act.

Revised decision

5. I have decided to vary the original decision by partially releasing further information in three documents, namely Item 1, Serials 2, 3 and 4. I have not considered releasing any further material in Item 1 Serial 1 as this document was released intact.
6. I uphold the original decision to deny access to two documents (Item 1 Serial 5 and Item 2 Serial 1) under section 33 and/or section 34 of the FOI Act.
7. The reasons to not release the deleted information, considered exempt under section 33, section 34 and/or section 47C of the FOI Act, are set out in the original decision of 21 June 2019.
8. Furthermore, material such as mobile telephone numbers which is regarded as irrelevant to the scope of the request has been removed in accordance with section 22(1)(b)(ii) of the FOI Act.
9. Please see a copy of Item 1, Serials 2, 3 and 4 in the form approved for release.

Material taken into account

10. In making my decision, I had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents subject to the request;
 - c. relevant provisions of the FOI Act;
 - d. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act*; and
 - e. advice received from the Department of the Prime Minister and Cabinet on Cabinet-related material.

Section 22 – Item 1 Serial 5 and Item 2 Serial 1

11. Section 22 of the FOI Act requires a decision maker to give an applicant access to an edited copy of a document with the exempt material deleted, if it is reasonably practicable to do so and retain a copy of a meaningful non-exempt edited copy of the document.
12. As I have upheld the decision to deny access to Item 1 Serial 5 and Item 2 Serial 1, I found that it is not practicable to make an edited copy of the documents without them becoming meaningless.

Further information

13. As part of the process of the IC's review of this matter, the Department will be providing submissions to the OAIC.



Ms Megan Lees
Decision Maker
Associate Secretary Group