



**DEFENCE FOI 0084/24/25**

**STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982**

1. I refer to the request by s22 (the applicant), dated and received on 25 July 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*Please accept this request for information in accordance with the FOI Act.*

*Please provide Defence's current Protected Identity Status policy document.*

*Please provide Defence's Protected Identify Status policy document that was in power in the years 2012 and 2021.*

**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 have identified three documents as falling within the scope of the request.
4. The decision in relation to each document is detailed in the schedule of documents.

**Decision**

5. I have decided to:
  - a. partially release three 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(a)(ii) [documents affecting national security, defence or international relations] of the FOI Act.

**Material taken into account**

6. In making my decision, I have had regard to:
  - a. the terms of the request;
  - b. the content of the identified documents in issue;
  - c. relevant provisions of the FOI Act; and
  - 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 33(a)(ii) – Documents affecting national security, defence or international relations

7. Section 33(a)(ii) of the FOI Act states:

*A document is an exempt document if disclosure of the document under this Act:*

- (a) would, or could reasonably be expected to, cause damage to:*
  - (ii) the defence of the Commonwealth*

8. In regard to the terms ‘would, or 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.*

...

*5.32 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. In regard to ‘defence of the Commonwealth’, the Guidelines, at paragraph 5.36, refer to previous Administrative Appeals Tribunal (AAT) decisions which provide that the term includes:

- a. meeting Australia’s international obligations;
- b. ensuring the proper conduct of international defence relations;
- c. deterring and preventing foreign incursions into Australian territory; and
- d. protecting the Defence Force from hindrance or activities which would prejudice its effectiveness.

10. I have identified material in the documents which, upon release, would cause, or could reasonably be expected to cause, damage to the defence of the Commonwealth. The documents would provide information that would hinder the Defence Force in activities and prejudice its effectiveness.

11. Protecting the identities of personnel involved in sensitive roles and activities is key to the effective operation of the Defence Force and in maintaining the safety and security of these individuals. Releasing information that details how this protection occurs will jeopardise sensitive operations as well as the individuals involved.
12. Accordingly, I am satisfied that the information is exempt under section 33(a)(ii) of the FOI Act.

#### **FURTHER INFORMATION**

13. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through.

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Accredited Decision Maker  
People, Policy & Employment Conditions  
Department of Defence