



DEFENCE FOI 1027/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

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

- 1.) *Operational summaries (OPSUM) related to TF66 operations in Gumbad (alternative spelling "Gombad") in 2010. (Date range: 1 January 2010 - 1 January 2011).*
- 2.) *Operational summaries (OPSUM) related to TF66 operations in Sula (alternative spelling "Sola") in 2012. (Date range: 1 January 2012 - 1 January 2013).*

Background

2. [REDACTED]

FOI decision maker

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

Documents identified

4. I have identified six (6) documents falling within the scope of the request.

Decision

5. I have decided to:
- a. partially release the six (6) 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 sections 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;
- 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 subject matter experts within Defence.

REASONS FOR DECISION

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

- 7. Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to exempt material.
- 8. The documents contain exempt material.
- 9. I am satisfied that it is reasonably practicable to remove the exempt material and release the documents to you in an edited form.

Section 33(a)(ii) – Documents affecting national security, defence or international relations

- 10. 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

- 11. 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.

12. 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.

13. I have determined that the documents contain information, the exposure of which could prejudice the effectiveness of the Australian Defence Force. This is because the information pertains to force composition; and tactics, techniques and procedures (TTPs). The release could expose information that external entities could utilise to hinder capability. Such action could result in damage to the defence of the Commonwealth.

14. Accordingly, I find that this material is exempt under section 33(a)(ii) of the FOI Act.

Digitally signed by

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Accredited Decision-Maker
Associate Secretary Group
Department of Defence