



DEFENCE FOI 015/24/25

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by 'CR' (the applicant), dated and received on 3 July 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

...a document listing all staff positions at the Joint Defence Facility Pine Gap. Specifically, I seek details on the total number of positions and the number of personnel in each position, categorised by Australian and United States citizenship.

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.

Decision

3. I have decided to refuse access to the request on the grounds that the material is considered exempt under section 7 of the FOI Act.

Material taken into account

4. 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 7 – Exemption of certain persons and bodies

5. Section 7(2A) of the FOI Act states:

(2A) An agency is exempt from the operation of this Act in relation to the following documents:

- (a) a document ... that has originated with, or has been received from, any of the following:*
 - (i) the Australian Secret Intelligence Service;*
 - (ii) the Australian Security Intelligence Organisation;*
 - (iii) the Inspector-General of Intelligence and Security;*

(iv) the Office of National Intelligence;

(v) the Australian Geospatial-Intelligence Organisation (other than a document that has originated with, or has been received from, the Australian Hydrographic Office in the performance of its functions under subsection 223(2) of the Navigation Act 2012);

(vi) the Defence Intelligence Organisation;

(vii) the Australian Signals Directorate.

(b) a document that contains a summary of, or an extract or information from, an intelligence agency document, to the extent that it contains such a summary, extract or information.

6. Specifically, paragraph 2.29 of the Guidelines state:

Responding to access requests if an exemption applies

2.29 Where an agency is exempt in whole from the FOI Act under s 7, it is not obliged to respond to requests for access to documents or amendment or annotation of personal records. It is nevertheless good administrative practice for an exempt agency to reply to an applicant stating that the agency is not subject to the FOI Act.

7. I note that the applicant's request for access to the specified information falls within the jurisdiction of an exempt agency. In accordance with section 7(2A) of the FOI Act, this agency is exempt from the operations of the FOI Act.
8. By virtue of section 7(2A), the FOI Act does not apply to such material and I have accordingly decided to refuse access to it.



Alanna Mackay
Accredited Decision Maker
Strategy, Policy and Industry Group
Department of Defence

02/08/2024