



**DEFENCE FOI 355/24/25**

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

1. I refer to the request by John Davis (the applicant), dated and received on 8 November 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

“...the LWP-G 0-5-2 Staff Officers Aide-Memoire.”

**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 one (1) document as falling within the scope of the request.

**Decision**

4. I have decided to refuse access to 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 identified document is considered exempt under section 33 [Documents affecting national security, defence or international relations] of the FOI Act.

**Material taken into account**

5. In making my decision, I have had regard to:
  - a. the terms of the request;
  - b. the content of the identified document 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. Consultation with Defence HQ Forces Command.

**REASONS FOR DECISION**

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

6. Where a decision maker denies access to a document, section 22(1) of the FOI Act requires that they consider releasing the document with exempt matter deleted, if possible.

7. Paragraph 3.98 of the Guidelines provides that:

*...an agency or minister should take a common sense approach in considering whether the number of deletions would be so many that the remaining document would be of little or no value to the applicant.*

8. I have decided to refuse access to the document in full as it would be meaningless and of little or no value once the exempt material is removed.

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

9. 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*

10. 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.*

11. 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.

12. I have identified material in the document, which, upon release, would cause, or could reasonably be expected to cause, damage to the defence of the Commonwealth. The document includes information detailing the strengths and systems of Army Special Operations Command. The release of this data could reasonably be assumed to provide adversaries with information that may divulge operational capabilities and formations.
13. Defence's primary role is to secure and defend Australia and its national interests, promote security and stability, and support the Australian community as directed by the Government. I consider releasing documentation containing operational methods including Army tactics, training strategies, equipment's or weapons platforms, could cause damage to Australia's military capabilities, allowing those with hostile intentions to exploit the Australian Defence Force and in turn, prejudice, or hinder its effectiveness.
14. Furthermore, I have taken into account, and placed weight on the intelligence technique known as the 'mosaic theory' when making my assessment of the damage that would, or could reasonably be expected to occur on disclosure of the material identified.
15. In this regard, the Guidelines, at paragraph 5.43 provide:
- When evaluation the potential harmful effects of disclosing the documents that affect Australia's national security, defence or international relations, decision makers may take into account not only the contents of the document but also the intelligence technique known as the 'mosaic theory'. This theory holds that individually harmless pieces of information, when combined with other pieces of information, can generate a composite – a mosaic – that can damage Australia's national security, defence or international relations. Therefore, decision makers may need to consider other sources of information when considering exemptions.*
16. I note, there are significant volumes of information in the public domain, that when matched with information from other sources, whether that information is in the public domain in an official or other capacity, could allow adversaries to piece together information that would undermine Defence's capability and effectiveness, causing damage to the security, defence or international relations of the Commonwealth.
17. Accordingly, I am satisfied that the document is exempt under section 33(a)(ii) of the FOI Act.

**Isabella**  
**ITALIANO 2**

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**Isabella Italiano**  
 Accredited Decision Maker  
 Army Headquarters  
 Department of Defence