



Our reference: FOI 390/14/15

By email: [foi+request-1079-cdd6axxx@xxxxxxxxxxxxx.xxx.xx](mailto:foi+request-1079-cdd6axxx@xxxxxxxxxxxxx.xxx.xx)

Dear Sir

## **NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST**

1. I refer to your email, dated 4 June 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“...all written documentation such as, but not limited to; letters, emails, notes, press releases, statements and faxes held by the "Department of Defence" that refer to arrangements and or contracts between the Department of Defence & Microsoft to extend Windows XP support beyond April 2014.”*

### **Background**

2. On 4 June 15, our office notified you that your request in its current form was considered too broad to be processed and would therefore likely attract a practical refusal under section 24 of the FOI Act.

3. By email, on 4 June 15, you provided the following revised scope:

*“...all documents between December 2013 to present, held by Defence Intelligence and Security Group that refer to arrangements and or contracts between the Department of Defence & Microsoft to extend Windows XP support beyond April 2014”.*

4. The purpose of this letter is to provide you with the decision relating to the documents that are the subject of your request.

### **FOI decision maker**

5. I, Ms Linda McCann, Director Freedom of Information, am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

**The document identified is exempt from the operation of the FOI Act**

6. Subsection 7(2A) of the FOI Act provides that agencies that are otherwise subject to the FOI Act are exempt from the operations of the FOI Act in relation to documents that originated with, or that have been received from, specific intelligence agencies, including the Australian Signals Directorate (ASD). When a person makes a request under section 15 of the FOI Act for access to any document in the possession of ASD, Defence is not required to treat it as a *'request'*.

7. ASD is the shared service provider of top secret ICT capability and the only body in Intelligence and Security Group able to enter into a software related contract.

8. In light of the above, access to the requested documents are refused on the grounds that the documents originated in an intelligence agency which is exempt under section 7 of the FOI Act.

**Rights of review**

12. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, "Freedom of Information – Your Review Rights", setting out your rights of review is at Enclosure 1.

**Further information**

13. The FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2015C00013>.

14. All departmental action on your request is now complete. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Linda McCann  
Director  
Freedom of Information

18 June 2015

Enclosure:

1. Fact Sheet: Freedom of Information – Your Review Rights