



19 September 2024

Alex Pentland
By email: foi+request-11700-d20095a9@righttoknow.org.au

Dear Alex Pentland,

Re: Freedom of Information Request

I refer to your request received by the Department of Foreign Affairs and Trade (the department) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to provide you with a decision about your request.

I have identified documents relevant to your request. After careful consideration, I have decided to grant you access to an edited copy of the documents, with irrelevant and exempt material removed.

Your request

On 16 July 2024, you made the following request:

- 1. Any briefings provided by DFAT to the Minister for Foreign Affairs (or her office) between 13 July 2024 and 16 July 2024 inclusive in relation to the attempted assassination of Donald Trump on 13 July 2024 by Thomas Matthew Crooks*
- 2. Any briefings provided by DFAT to the Prime Minister (or his office) between 13 July 2024 and 16 July 2024 inclusive in relation to the attempted assassination of Donald Trump on 13 July 2024 by Thomas Matthew Crooks*

On 6 August 2024, the department requested a 30-calendar day extension of time to process your request (section 15AA of the FOI Act). The same day you consented to the requested extension of time.

The department subsequently notified the Office of the Australian Information Commissioner (OAIC) of the extension of time in accordance with our reporting obligations.

Authority

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

Reasons

In making my decision I have taken into account:

- the terms of your request;
- the documents within the scope of your request;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

The reasons for my decision and for the application of exemptions under the FOI Act to the document are set out below. Where I refer to sections of the FOI Act, these are available at www.legislation.gov.au. Where I refer to parts of the FOI Guidelines, these are available at www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines.

Damage to international relations (*section 33(a)(iii) of the FOI Act*)

Under section 33(a)(iii) of the FOI Act, a document is exempt if its disclosure would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth.

The phrase ‘international relations’ has been interpreted to mean the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them (FOI Guidelines, paragraph 5.39). This applies to documents, the disclosure of which could diminish the confidence which another country has in Australia as a reliable recipient of confidential information, making that country or its agencies less willing to cooperate with Australian agencies in future (paragraph 5.42 of the FOI Guidelines).

Furthermore, the expression ‘damage’ could include intangible damage, including inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government (paragraph 5.25 of the FOI Guidelines).

I have had regard to the nature of the information, the circumstances in which it was communicated, and the nature of Australia’s international relationship with the foreign country (FOI Guidelines, paragraph 5.40). Based on these considerations, I consider that the disclosure of the relevant material to which you seek access, would be reasonably likely to cause damage to Australia’s foreign relationships.

For these reasons, I have decided that the information marked up in the documents is exempt under section 33(a)(iii) of the FOI Act.

Documents subject to deliberative processes (section 47C of the FOI Act)

Under section 47C(1) of the FOI Act, a document is conditionally exempt if it contains deliberative matter. Deliberative matter is material that is in the nature of, or relates to (a) an opinion, advice or recommendation that has been obtained, prepared or recorded, or (b) a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or minister (section 47C(1) of the FOI Act).

Certain material within the scope of your request includes content in the nature of opinions and recommendations in relation to the department's deliberative processes with regard to the preparation of talking points that are to be public facing.

I am also satisfied that the material in question is not operational information (as defined by section 8A of the FOI Act) or purely factual material (section 47C of the FOI Act) and to the extent that the conditional exemption material might be considered factual, it is inextricably intertwined with the deliberative material and cannot be practically excised.

For these reasons, I have decided that the information marked up in the documents is conditionally exempt under section 47C(1) of the FOI Act.

Substantial adverse effect on an agency's proper and efficient conduct of operations (section 47E(d) of the FOI Act)

Under section 47E(d) of the FOI Act, a document is conditionally exempt if disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of an agency's operations. A 'substantial adverse effect' may be an indirect effect (paragraph 6.82 of the FOI Guidelines).

The predicted effect must bear on the department's 'proper and efficient' operations, that is, the department is undertaking its operations in an expected manner (paragraph 6.115 of the FOI Guidelines).

The documents describe departmental processes in engaging with foreign countries, as well as document drafting processes which are also not available publicly. It also includes material relevant to the security operations of Australian diplomatic missions.

I am satisfied that disclosure of this material within the scope of your request would prejudice the flow of similar information to the department in the future and that the department's inability to obtain similar information in future would, or could reasonably be expected to, have a substantial adverse effect on the department's ability to effectively and efficiently undertake its operational activities.

For these reasons, I have decided that the information marked up in the documents is conditionally exempt under section 47E(d) of the FOI Act.

Conditional exemptions - public interest considerations (section 11A(5) of the FOI Act)

As sections 47C(1) and 47E(d) of the FOI Act are conditional exemptions, I must grant you access to this material unless providing access would, on balance, be contrary to the public interest (section 11A(5) of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines referred to above and the public interest factors listed in section 11B of the FOI Act as favouring access, including whether granting access to the documents would:

- promote the objects of the FOI Act; and
- inform debate on a matter of public importance.

I have also considered public interest factors against disclosure, including that disclosure may reasonably be expected to:

- prejudice an individual's right to privacy;
- prejudice the proper and efficient conduct of an agency's operations;
- cause damage to the international relations of the Commonwealth.

On balance, I am of the view that the public interest is weighted against the disclosure of the conditionally exempt material. In forming this view, I have not taken into account any of the irrelevant factors specified in section 11B(4) of the FOI Act.

Irrelevant material (section 22(1)(a)(ii) of the FOI Act)

Some of the material excluded from the documents released to you is outside the scope or could reasonably be regarded as irrelevant to your request (section 22(1)(a)(ii) of the FOI Act).

In determining what is relevant to your request, I have taken into account the terms of your request and the email which you received from the department on 22 July 2024, in which you were invited to respond if you required the personal information of junior staff from ministerial offices and government officials not in the Senior Executive Service (SES) or equivalent, including their email addresses and contact numbers, together with all signatures, mobile phone numbers, departmental inboxes and technical transmission details including reference numbers.

As you have not stated that you require this information, I have decided to remove it from the documents being released to you.

Review rights

Information about your review rights is set out in the **Attachment** for your reference.

Contact

Should you have any queries regarding this matter please contact the Freedom of Information Section by email (foi@dfat.gov.au).

Yours sincerely

Victoria Young
Assistant Secretary
Department of Foreign Affairs and Trade

Your review rights

Internal review

You may apply for internal review of the decision ([section 54 of the FOI Act](#)). The internal review application must be made within 30 calendar days from the day you receive this notice.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply to the Australian Information Commissioner to review my decision ([section 54L of the FOI Act](#)). To do this, you must contact the Australian Information Commissioner within 60 calendar days from the day you receive this notice.

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision ([section 70 of the FOI Act](#)). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews.

Further information about how to make a complaint is available at: www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints.