



Australian Government

Defence

DEFENCE FOI 1214/24/25

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by Felix Lee (the applicant), dated and received on 7 June 2025 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

“...information regarding the radar interference incident involving HMAS Canberra on 4 June 2025.

I request access to:

- 1. Incident Reports and Situation Summaries: Any official incident reports, internal situation summaries, or preliminary assessments produced concerning the radar interference affecting HMAS Canberra.*
- 2. Communications: Internal emails, memoranda, or briefings exchanged referring to the radar interference event.*
- 3. External Notifications: Any communications sent to or received from foreign governments, defence partners, or international agencies regarding the incident.*
- 4. Technical Evaluations: Documents or analyses assessing the cause, source, or impact of the interference.*
- 5. Command Decisions or Responses: Any orders, decisions, or changes in operational posture arising as a result of the incident.”*

Background

2. On 30 June 2025, with the applicant’s written agreement Defence extended the period for dealing with the request from 7 July 2025 until 21 July 2025 in accordance with section 15AA [extension of time with agreement] of the FOI Act.

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 identified documents as falling within the scope of the request.

Exclusions

5. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

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Decision

6. I have decided to refuse access to the documents on the grounds that the information is considered exempt under sections 47C [Public interest conditional exemptions – deliberative processes] and 47E [Public interest conditional exemptions – certain operations of agencies] of the FOI Act.

Material taken into account

7. 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 provided from relevant personnel within the Royal Australian Navy.

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

8. 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.
9. 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.*
10. I have decided to refuse access to the documents as they would be meaningless and of little or no value once the exempt material is removed.

Section 47C – Public interest conditional exemptions - deliberative processes

11. Section 47C(1) of the FOI Act states:
- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (**deliberative matter**) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:*
- (a) an agency; or*
 - (b) a Minister; or*
 - (c) the Government of the Commonwealth.*
12. Paragraph 6.91 of the Guidelines provides that the conditional exemption must only apply where the potential effect following disclosure is expected to ‘be both substantial and adverse.’

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13. Following a review of the documents, I identified deliberative matter – that is, content that is in the nature of, or relating to either opinion, advice or recommendation that has been obtained, prepared or recorded; or a consultation or deliberation that has taken place, in the course of, or for the purpose of, a deliberative process of Defence.
14. I have considered the extent to which any of the deliberative processes within the specified material may already be in the public domain.
15. Section 47C(2)(b) of the FOI Act provides that deliberative matter does not include purely factual material. The Guidelines, at paragraph 6.70, state that:
- [p]urely factual material' does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content such that it is impractical to excise it.*
16. Due to the currency of the subject matter (in that certain aspects of the subject matter have not yet been settled or remain open for consultation), I am of the opinion that the identified information would reveal deliberative processes of Defence. Accordingly, I find that the identified documents contain deliberative matters which is conditionally exempt under section 47C(1) of the FOI Act.

Section 47E(d) – Public interest conditional exemptions – certain operations of agencies

17. Section 47E(d) of the FOI Act states:
- A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.*
18. The Guidelines, at paragraph 6.115, provide that:
- The predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its operations in an expected manner.*
19. I find that the material specified relates to the investigation of specific incident that is currently under investigation.
20. Releasing information, that has not yet been formalised could reasonably be expected to have a substantial adverse effect on Defence's management of current and future reported incidents. Maintaining the integrity of investigations and the ability for individuals to provided information freely is paramount. Releasing details about the incident those involved could adversely affect Defence's ability to conduct future investigations and directly affect the proper and efficient conduct of the operations of the agency. In this instance the proper and efficient conduct of the operations of the RAN.
21. The documents also contain the names and contact details of Defence personnel beyond those subject to the investigations. I am satisfied there is a reasonable expectation that the names and contact details of Defence personnel could be used

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inappropriately, in a manner which adversely affects the health, wellbeing, and work of Defence personnel.

22. Accordingly, I am satisfied that the information is conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations - sections 47C

23. Section 11A(5) of the FOI Act states:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

24. I have considered the factors favouring disclosure as set out in section 11B(3) [factors favouring access] of the FOI Act. The relevant factors being whether access to the document would:

(a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);

(b) inform debate on a matter of public importance;

(c) promote effective oversight of public expenditure;

(d) allow a person to access his or her own personal information.

25. In my view, disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).

26. Paragraph 6.233 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice:

- the protection of an individual's right to privacy;
- the interests of an individual or a group of individuals;
- an agency's ability to obtain confidential information;
- an agency's ability to obtain similar information in the future;
- the management function of an agency; and
- the personnel management function of an agency.

27. I have not taken any of the factors listed in section 11B(4) [irrelevant factors] of the FOI Act into account when making this decision.

28. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure, and that, on balance, it is against the

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public interest to release the information to you. Accordingly, I find that the information is exempt under sections 47C and 47E(d) of the FOI Act.

Anita

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Date: 2025.07.15
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CDRE Anita Williams, CSC, CSM, RAN

Accredited Decision Maker

Navy

Department of Defence